

DRINKING WATER BOARD
PACKET

MARCH 5, 2009

ST. GEORGE, UTAH

AGENDA
FOR THE
DRINKING WATER BOARD
MEETING
OF
MARCH 5, 2009



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

Drinking Water Board
Anne Erickson, Ed.D., *Chair*
Myron Bateman, *Vice-Chair*
Ken Bassett
Daniel Fleming
Jay Franson, P.E.
Helen Graber, Ph.D.
Paul Hansen, P.E.
Petra Rust
William J. Sinclair
David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

DRINKING WATER BOARD MEETING

MARCH 5, 2009
2:00 p.m.

Place: Dixie Convention Center
1835 Convention Center Drive, (Garden Room)
St. George, Utah 84770

Ken Bousfield's Cell Phone #: (801) 674-2557

1. Call to Order – Chairman Erickson
2. Roll Call – Ken Bousfield
3. Introductions – Chairman Erickson
4. Approval of Minutes – January 14, 2009
5. Financial Assistance Committee Report – Vice Chairman Myron Bateman
 - 1) Status Report – Ken Wilde
 - 2) Project Priority List – Ken Wilde
 - 3) Draft Intended Use Plan for FY '09 Capitalization Grant – Ken Wilde
 - 4) SRF Applications
 - a) Sigurd Town – Planning – Gary Kobzeff
 - b) Hideout Town – Planning – Gary Kobzeff
 - c) Central Iron County WCD – Ken Wilde
 1. Application Request for \$3,910,878
 2. Application Request for \$3,378,065
 - d) Dutch John – Jesse Johnson
 - e) Hinckley Town – Deauthorization – Rich Peterson
 - f) Deseret Oasis SSD, Hinckley Town, Delta City – Rich Peterson
 - g) Other Business
6. Cross Connection Control Commission Members Renewal – Kim Dyches

7. SB 70 Adjudicative Proceedings – Ken Bousfield
8. Engineering Rule Amendments – Bob Hart and Bill Birkes
 - a) R309-105-6(2)(b): Submission Items Associated with Exception Request
 - b) R309-110-4: Master Plan Definition
 - c) R309-500-5(2) and 500-6(3)(a) & (b): On-going O&B and Waiving of Plan Submittal
9. Rural Water Association of Utah's Report
10. Chairman's Report – Chairman Erickson
11. Directors Report
 - a) Election of Chair and Vice Chair for 2009
12. Letters
13. Next Board Meeting:
Date: Early April , 2009 Date to be Determined
Time of Board Meeting: Time to be Determined
Location: 168 North 1950 West
Room to be Determined – when the Date is set
Salt Lake City, Utah 84116
14. Other
15. Adjourn

In compliance with the American Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources at: (801) 536-4412, TDD (801) 536-4424, at least five working days prior to the scheduled meeting.

AGENDA ITEM 6

CROSS CONNECTION CONTROL COMMISSION
MEMBERS RENEWAL – Kim Dyches

CROSS CONNECTION CONTROL COMMISSION RENEWALS

The Cross Connection Control Commission currently has 7 members. Three of the members are up for renewal this year: Dan Smith (Utah Pipe Trades Educational Program), Gary Jenkins (Backflow Supply) and Charles Jeffs (Rural Water Association of Utah). Each Commission member is appointed to a two-year term. A Current Commission Roster and the Proposed Commission Roster are attached.

Staff Recommendations:

The Commission recommends the Board approve Dan Smith, Gary Jenkins, and Charles Jeffs to serve another 2-year term from 2008 to 2010 on the Cross Connection Control Commission.



RURAL WATER ASSOCIATION OF UTAH

76 Red Pine Drive • Alpine, UT 84004 • Phone: 801-756-5123 • Fax: 801-756-5036

Wednesday, February 04, 2009

Michael Moss
Cross Connection Control Program
Division of Drinking Water
PO Box 144830
Salt Lake City, UT 84114

Michael:

The Rural Water Association of Utah has made the decision to replace Charles Jeffs who has been our representative on the Utah Cross Connection Council.

He will be replaced by Terry K Smith. This will be effective immediately. Terry's contact information is as follows:

Terry K Smith
801-756-5123 (Office)
435-691-0691 (Cell)

76 Red Pine Drive
Alpine, UT 84004

tsmith@rwau.net

Please let me know if you have any questions or concerns with this matter.

Sincerely,

Vern Steel
Rural Water Association of Utah

CURRENT
Cross Connection Control Commission

Member	Agency Represented	Agency Contact	Date of Original Appointment	Term of Office Expires
Dan B. Smith Utah Pipe Trades Educational Program 900 North 400 West, Suite 4 North Salt Lake, Utah 84054-2636 Phone: (801) 295-6198 Fax: (801) 295-5864	Plumbers and Pipe Trades	Dan B, Smith 295-6198	December 16, 2004	December 31, 2008
Gary Jenkins Backflow Supply 962 East 900 South Salt Lake City, Utah 84105 Phone: (801) 355-6736 Fax: (801) 355-9233	Utah Mechanical Contractors Association	Bob Bergman 364-7768	January 1, 1989	December 31, 2008
Charles Jeffs Rural Water Association of Utah 8365 North 3000 East Ephraim, Utah 84627 Phone: (435) 756-5123 Fax: (435) 756-5036	Rural Water Association of Utah	Dale Pierson 756-5123	July 14, 2006	December 31, 2008
Jay Franson, P.E., Mayor Highland City 5578 West 10400 North Highland, Utah 84003 Phone: (801) 756-0309 Fax: (801) 756-0481	Drinking Water Board	Kenneth Wilde 536-4200	January 1, 2002	December 31, 2009
Frank Mills City of Pleasant Grove 70 South 100 East Pleasant Grove, Utah 84062 Phone: (801) 785-5045 Fax: (801) 785-8925	Utah League of Cities and Towns	Kenneth Bullock 328-1601	January 1, 1998	December 31, 2009
Tim Collings Salt Lake City 451 South State Street, Suite 406 Salt Lake City, Utah 84111 Phone: (801) 535-6685 Fax: (801) 535-6297	Utah Association of Plumbing & Mechanical Officials	Stuart Murray 629-8956	December 16, 2004	December 31, 2009
Brad Jones Logan City 450 North 1000 West Logan, Utah 84321 Phone: (435) 716-9757	Utah Chapter of the American Backflow Prevention Association	Brad Jones 435-881-2505	June 15, 2006	December 31, 2009

2/5/09
Term is: 2 years
xcon

PROPOSED

Cross Connection Control Commission

Member	Agency Represented	Agency Contact	Date of Original Appointment	Term of Office Expires
Dan B. Smith Utah Pipe Trades Educational Program 900 North 400 West, Suite 4 North Salt Lake, Utah 84054-2636 Phone: (801) 295-6198 Fax: (801) 295-5864	Plumbers and Pipe Trades	Dan B, Smith 295-6198	December 16, 2004	December 31, 2010
Gary Jenkins Backflow Supply 962 East 900 South Salt Lake City, Utah 84105 Phone: (801) 355-6736 Fax: (801) 355-9233	Utah Mechanical Contractors Association	Bob Bergman 364-7768	January 1, 1989	December 31, 2010
Terry K. Smith Rural Water Association of Utah 76 Red Pine Drive Alpine, Utah 84627 Phone: (435) 756-5123 Fax: (435) 756-5036	Rural Water Association of Utah	Dale Pierson 756-5123	March 5, 2009	December 31, 2010
Jay Franson, P.E., Mayor Highland City 5578 West 10400 North Highland, Utah 84003 Phone: (801) 756-0309 Fax: (801) 756-0481	Drinking Water Board	Kenneth Wilde 536-4200	January 1, 2002	December 31, 2009
Frank Mills City of Pleasant Grove 70 South 100 East Pleasant Grove, Utah 84062 Phone: (801) 785-5045 Fax: (801) 785-8925	Utah League of Cities and Towns	Kenneth Bullock 328-1601	January 1, 1998	December 31, 2009
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Brad Jones Logan City 450 North 1000 West Logan, Utah 84321 Phone: (435) 716-9757	Utah Chapter of the American Backflow Prevention Association	Brad Jones 435-881-2505	June 15, 2006	December 31, 2009

2/5/09
Term is: 2 years
xcon

AGENDA ITEM 7

SB 70 ADJUDICATIVE PROCEEDINGS
- Ken Bousfield

DEPARTMENT OF ENVIRONMENTAL QUALITY

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to adjudicative proceedings within the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the executive director of the Department of Environmental Quality to appoint an administrative law judge;
- requires an administrative law judge to conduct all adjudicative proceedings within the department, except an emergency adjudicative proceeding;
- establishes powers, duties, and qualifications for an administrative law judge; and
- amends or repeals the powers of boards within the department regarding hearings, adjudicative proceedings, and hearing officers or examiners.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **19-1-202**, as last amended by Laws of Utah 2005, Chapter 200
29 **19-1-301**, as last amended by Laws of Utah 2008, Chapter 382
30 **19-2-104**, as last amended by Laws of Utah 2008, Chapters 68 and 382
31 **19-2-108**, as renumbered and amended by Laws of Utah 1991, Chapter 112
32 **19-2-109.1**, as last amended by Laws of Utah 2008, Chapter 382
33 **19-2-109.5**, as last amended by Laws of Utah 2008, Chapter 382
34 **19-2-110**, as renumbered and amended by Laws of Utah 1991, Chapter 112
35 **19-2-112**, as last amended by Laws of Utah 2008, Chapter 382
36 **19-3-103.5**, as last amended by Laws of Utah 1995, Chapter 90
37 **19-4-104**, as last amended by Laws of Utah 2008, Chapter 382
38 **19-5-111**, as renumbered and amended by Laws of Utah 1991, Chapter 112
39 **19-5-112**, as last amended by Laws of Utah 1995, Chapter 114
40 **19-6-104**, as last amended by Laws of Utah 2007, Chapter 72
41 **19-6-704**, as last amended by Laws of Utah 2008, Chapter 382

42 REPEALS:

43 **19-2-111**, as renumbered and amended by Laws of Utah 1991, Chapter 112

45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **19-1-202** is amended to read:

47 **19-1-202. Duties and powers of the executive director.**

48 (1) The executive director shall:

49 (a) administer and supervise the department;

50 (b) coordinate policies and program activities conducted through boards, divisions, and
51 offices of the department;

52 (c) approve the proposed budget of each board, division, and office within the
53 department;

54 (d) approve all applications for federal grants or assistance in support of any
55 department program; ~~and~~

56 (e) with the governor's specific, prior approval, expend funds appropriated by the
57 Legislature necessary for participation by the state in any fund, property, or service provided by
58 the federal government~~[-]; and~~

59 (f) in accordance with Section 19-1-301, appoint one or more administrative law
60 judges to hear an adjudicative proceeding within the department.

61 (2) The executive director may:

62 (a) issue orders to enforce state laws and rules established by the department except
63 where the enforcement power is given to a board created under Section 19-1-106, unless the
64 executive director finds that a condition exists [~~which~~] that creates a clear and present hazard to
65 the public health or the environment and [~~which~~] requires immediate action, and if the
66 enforcement power is vested with a board created under Section 19-1-106, the executive
67 director may with the concurrence of the governor order any person causing or contributing to
68 the condition to reduce, mitigate, or eliminate the condition;

69 (b) with the approval of the governor, participate in the distribution, disbursement, or
70 administration of any fund or service, advanced, offered, or contributed by the federal
71 government for purposes consistent with the powers and duties of the department;

72 (c) accept and receive funds and gifts available from private and public groups for the
73 purposes of promoting and protecting the public health and the environment and expend the
74 funds as appropriated by the Legislature;

75 (d) make policies not inconsistent with law for the internal administration and
76 government of the department, the conduct of its employees, and the custody, use, and
77 preservation of the records, papers, books, documents, and property of the department;

78 (e) create advisory committees as necessary to assist in carrying out the provisions of
79 this title;

80 (f) appoint division directors who may be removed at the will of the executive director
81 and who shall be compensated in an amount fixed by the executive director;

82 (g) advise, consult, and cooperate with other agencies of the state, the federal
83 government, other states and interstate agencies, affected groups, political subdivisions, and
84 industries in carrying out the purposes of this title;

85 (h) consistent with Title 67, Chapter 19, Utah State Personnel Management Act,
86 employ employees necessary to meet the requirements of this title;

87 (i) authorize any employee or representative of the division to conduct inspections as
88 permitted in this title;

89 (j) encourage, participate in, or conduct any studies, investigations, research, and

demonstrations relating to hazardous materials or substances releases necessary to meet the requirements of this title;

(k) collect and disseminate information about hazardous materials or substances releases;

(l) review plans, specifications, or other data relating to hazardous substances releases as provided in this title; and

(m) maintain, update not less than annually, and make available to the public a record of sites, by name and location, at which response actions for the protection of the public health and environment under Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, or under Title 19, Chapter 8, Voluntary Cleanup Program, have been completed in the previous calendar year, and those that the department plans to address in the upcoming year pursuant to this title, including if upon completion of the response action the site:

(i) will be suitable for unrestricted use; or

(ii) will be suitable only for restricted use, stating the institutional controls identified in the remedy to which use of the site is subject.

Section 2. Section **19-1-301** is amended to read:

19-1-301. Adjudicative proceedings.

(1) As used in this section, "dispositive action" is a final agency action that:

(a) a board takes following an adjudicative proceeding on a request for agency action;

and

(b) is subject to judicial review under Section 63G-4-403.

(2) (a) The department and its boards shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) The procedures for an adjudicative proceeding conducted by an administrative law judge are governed by:

(i) Title 63G, Chapter 4, Administrative Procedures Act;

(ii) rules adopted by a board as authorized by:

(A) Subsection 63G-4-102(6); and

(B) this title; and

(iii) the Utah Rules of Civil Procedure, in the absence of a procedure established under Subsection (2)(b)(i) or (ii).

121 (3) An administrative law judge shall hear a party's request for agency action made to a
122 board created in Section 19-1-106.

123 (4) The executive director shall appoint an administrative law judge who:

124 (a) is a member in good standing of the Utah State Bar;

125 (b) has a minimum of:

126 (i) ten years of experience practicing law; and

127 (ii) five years of experience practicing in the field of:

128 (A) environmental compliance;

129 (B) natural resources;

130 (C) regulation by an administrative agency; or

131 (D) a field related to a field listed in Subsections (4)(b)(ii)(A) through (C); and

132 (c) has a working knowledge of the federal laws and regulations and state statutes and
133 rules applicable to a request for agency action.

134 (5) In appointing an administrative law judge who meets the qualifications listed in
135 Subsection (4), the executive director may:

136 (a) compile a list of persons who may be engaged as an administrative law judge pro
137 tempore by mutual consent of the parties to an adjudicative proceeding;

138 (b) appoint an assistant attorney general as an administrative law judge pro tempore; or

139 (c) (i) appoint an administrative law judge as an employee of the department; and

140 (ii) assign the administrative law judge responsibilities in addition to conducting an
141 adjudicative proceeding.

142 (6) (a) An administrative law judge shall:

143 (i) conduct an adjudicative proceeding;

144 (ii) take any action that is not a dispositive action; and

145 (iii) submit to the board a proposed dispositive action, including:

146 (A) written findings of fact;

147 (B) written conclusions of law; and

148 (C) a recommended order.

149 (b) A board may:

150 (i) approve, approve with modifications, or disapprove a proposed dispositive action
151 submitted to the board under Subsection (6)(a); or

152 (ii) return the proposed dispositive action to the administrative law judge for further
153 action as directed.

154 (7) To conduct an adjudicative proceeding, an administrative law judge may:

155 (a) compel:

156 (i) the attendance of a witness; and

157 (ii) the production of a document or other evidence;

158 (b) administer an oath;

159 (c) take testimony; and

160 (d) receive evidence as necessary.

161 (8) A party may appear before an administrative law judge in person, through an agent
162 or employee, or as provided by a board rule.

163 (9) (a) An administrative law judge or board member may not communicate with a
164 party to an adjudicative proceeding regarding the merits of the adjudicative proceeding unless
165 notice and an opportunity to be heard are afforded to all parties.

166 (b) An administrative law judge or board member who receives an ex parte
167 communication shall place the communication into the public record of the proceedings and
168 afford all parties an opportunity to comment on the information.

169 (10) Nothing in this section limits a party's right to an adjudicative proceeding under
170 Title 63G, Chapter 4, Administrative Procedures Act.

171 Section 3. Section **19-2-104** is amended to read:

172 **19-2-104. Powers of board.**

173 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
174 Administrative Rulemaking Act:

175 (a) regarding the control, abatement, and prevention of air pollution from all sources
176 and the establishment of the maximum quantity of air contaminants that may be emitted by any
177 air contaminant source;

178 (b) establishing air quality standards;

179 (c) requiring persons engaged in operations which result in air pollution to:

180 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

181 (ii) file periodic reports containing information relating to the rate, period of emission,
182 and composition of the air contaminant; and

(iii) provide access to records relating to emissions which cause or contribute to air pollution;

(d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management plans submitted by local education agencies under that act;

(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;

(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;

(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;

(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2); and

(i) implementing lead-based paint remediation training, certification, and performance requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

(2) When implementing Subsection (1)(h) the board shall take into consideration:

(a) the impact of the business on overall air quality; and

(b) the need of the business to use automobiles in order to carry out its business purposes.

(3) The board may:

(a) (i) hold [hearings] a hearing that is not an adjudicative proceeding relating to any aspect of or matter in the administration of this chapter and compel the attendance of witnesses and the production of documents and other evidence, administer oaths and take testimony, and receive evidence as necessary;

(ii) receive a proposed dispositive action from an administrative law judge as provided

by Section 19-1-301; and

(iii) (A) approve, approve with modifications, or disapprove a proposed dispositive action; or

(B) return the proposed dispositive action to the administrative law judge for further action as directed;

(b) issue orders necessary to enforce the provisions of this chapter, enforce the orders by appropriate administrative and judicial proceedings, and institute judicial proceedings to secure compliance with this chapter;

(c) settle or compromise any civil action initiated to compel compliance with this chapter and the rules made under this chapter;

(d) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(e) prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state;

(f) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(g) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consultative assistance to them;

(h) encourage and conduct studies, investigations, and research relating to air contamination and air pollution and their causes, effects, prevention, abatement, and control;

(i) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(j) monitor the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere in all parts of this state and take appropriate action with respect to them;

(k) collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution;

(l) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, and with interested persons or groups;

(m) consult, upon request, with any person proposing to construct, install, or otherwise

acquire an air contaminant source in the state concerning the efficacy of any proposed control device, or system for this source, or the air pollution problem which may be related to the source, device, or system, but a consultation does not relieve any person from compliance with this chapter, the rules adopted under it, or any other provision of law;

(n) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(o) require the owner and operator of each new source which directly emits or has the potential to emit 100 tons per year or more of any air contaminant or the owner or operator of each existing source which by modification will increase emissions or have the potential of increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee sufficient to cover the reasonable costs of:

(i) reviewing and acting upon the notice required under Section 19-2-108; and

(ii) implementing and enforcing requirements placed on the sources by any approval order issued pursuant to notice, not including any court costs associated with any enforcement action;

(p) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Sec. 7420;

(q) meet the requirements of federal air pollution laws;

(r) establish work practice, certification, and clearance air sampling requirements for persons who:

(i) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections;

(ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;

(iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

(iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

(s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et

seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as inspectors, management planners, abatement project designers, asbestos abatement contractors and supervisors, or asbestos abatement workers;

(t) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of persons who, prior to establishment of the certification requirements, had received relevant asbestos training, as defined by rule, and had acquired at least 1,000 hours of experience as project monitors;

(u) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;

(v) establish a program to certify private sector air quality permitting professionals (AQPP), as described in Section 19-2-109.5;

(w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as inspectors, risk assessors, supervisors, project designers, or abatement workers; and

(x) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.

(4) Any rules adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

Section 4. Section **19-2-108** is amended to read:

19-2-108. Notice of construction or modification of installations required -- Authority of executive secretary to prohibit construction -- Hearings -- Limitations on authority of board -- Inspections authorized.

(1) The board shall require that notice be given to the executive secretary by any person planning to construct a new installation which will or might reasonably be expected to be a source or indirect source of air pollution or to make modifications to an existing installation

which will or might reasonably be expected to increase the amount of or change the character or effect of air contaminants discharged, so that the installation may be expected to be a source or indirect source of air pollution, or by any person planning to install an air cleaning device or other equipment intended to control emission of air contaminants.

(2) (a) (i) The executive secretary may require, as a condition precedent to the construction, modification, installation, or establishment of the air contaminant source or indirect source, the submission of plans, specifications, and other information as he finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter.

(ii) Plan approval for an indirect source may be delegated by the executive secretary to a local authority when requested and upon assurance that the local authority has and will maintain sufficient expertise to insure that the planned installation will meet the requirements established by law.

(b) If within 90 days after the receipt of plans, specifications, or other information required under this subsection, the executive secretary determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the board to adequately review the plans, specifications, or other information, he shall issue an order prohibiting the construction, installation, or establishment of the air contaminant source or sources in whole or in part.

(3) In addition to any other remedies, any person aggrieved by the issuance of an order either granting or denying a request for the construction of a new installation, and prior to invoking any such other remedies shall, upon request, in accordance with the rules of the board, be entitled to a hearing conducted by an administrative law judge as provided by Section 19-1-301. Following the hearing~~[, the]~~ and the receipt by the board of the proposed dispositive action from the administrative law judge, the board may affirm, modify, or withdraw the permit ~~[may be affirmed, modified, or withdrawn]~~.

(4) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted under Subsection (1) shall be maintained in good working order.

(5) This section does not authorize the board to require the use of machinery, devices,

or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices, or equipment otherwise available.

(6) (a) Any authorized officer, employee, or representative of the board may enter and inspect any property, premise, or place on or at which an air contaminant source is located or is being constructed, modified, installed, or established at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under it.

(b) (i) A person may not refuse entry or access to any authorized representative of the board who requests entry for purposes of inspection and who presents appropriate credentials.

(ii) A person may not obstruct, hamper, or interfere with any inspection.

(c) If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Section 5. Section **19-2-109.1** is amended to read:

19-2-109.1. Operating permit required -- Emissions fee -- Implementation.

(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

(a) "EPA" means the federal Environmental Protection Agency.

(b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

(c) "Operating permit" means a permit issued by the executive secretary to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.

(e) "Regulated pollutant" has the same meaning as defined in Title V of the 1990 Clean Air Act and implementing federal regulations.

(2) (a) A person may not operate any source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the executive secretary under procedures the board establishes by rule.

(b) A person is not required to submit an operating permit application until the governor has submitted an operating permit program to the EPA.

(c) Any operating permit issued under this section may not become effective until the day after the EPA issues approval of the permit program or November 15, 1995, whichever occurs first.

(3) (a) Operating permits issued under this section shall be for a period of five years

unless the board makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The executive secretary may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The executive secretary shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The executive secretary may terminate, modify, revoke, or reissue an operating permit for cause.

(4) (a) The board shall establish a proposed annual emissions fee that conforms with Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources required to obtain a permit. The emissions fee established under this section is in addition to fees assessed under Section 19-2-108 for issuance of an approval order.

(b) In establishing the fee the board shall comply with the provisions of Section 63J-1-303 that require a public hearing and require the established fee to be submitted to the Legislature for its approval as part of the department's annual appropriations request.

(c) The fee shall cover all reasonable direct and indirect costs required to develop and administer the program and the small business assistance program established under Section 19-2-109.2. The board shall prepare an annual report of the emissions fees collected and the costs covered by those fees under this Subsection (4).

(d) The fee shall be established uniformly for all sources required to obtain an operating permit under the program and for all regulated pollutants.

(e) The fee may not be assessed for emissions of any regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emissions fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(5) Emissions fees for the period:

(a) of July 1, 1992, through June 30, 1993, shall be based on the most recent emissions

inventory prepared by the executive secretary; and

(b) on and after July 1, 1993, but prior to issuance of an operating permit, shall be based on the most recent emissions inventory, unless a source elects prior to July 1, 1992, to base the fee on allowable emissions, if applicable for a regulated pollutant.

(6) After an operating permit is issued the emissions fee shall be based on actual emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(7) If the owner or operator of a source subject to this section fails to timely pay an annual emissions fee, the executive secretary may:

(a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or

(b) revoke the operating permit.

(8) The owner or operator of a source subject to this section may contest an emissions fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection (8).

(a) The owner or operator must pay the fee under protest prior to being entitled to a hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.

(b) A request for a hearing under this subsection shall be made after payment of the emissions fee and within six months after the emissions fee was due.

(9) To reinstate an operating permit revoked under Subsection (7) the owner or operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.

(10) All emissions fees and penalties collected by the department under this section shall be deposited in the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

(11) Failure of the executive secretary to act on any operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any

of the following persons to require the executive secretary to take action on the permit or its renewal without additional delay:

- (a) the applicant;
- (b) any person who participated in the public comment process; or
- (c) any other person who could obtain judicial review of that action under applicable law.

Section 6. Section **19-2-109.5** is amended to read:

19-2-109.5. Private sector air quality permitting professionals certification program.

(1) As used in this section, "AQPP" means an air quality permitting professional.

(2) The board may establish a program to certify private sector AQPPs, including consultants and employees of companies that may seek air quality permits from the division.

Any program established under this section shall include:

(a) a training program established and operated by the department, which describes and explains the state law and rules regarding the air quality permit application and approval procedure under this chapter;

(b) the requirement to pass an exam to measure qualifications of AQPP applicants;

(c) an option for certification of an AQPP by passing the exam without undergoing any training required under the program;

(d) an application process, including a fee established under Section 63J-1-303 that covers the costs of the training, testing, and application process and the department's maintenance of a list of certified AQPPs;

(e) certification of qualified AQPP applicants;

(f) maintenance by the department of a current list of certified AQPPs, which is available to the public;

(g) procedures for the expedited review by the department of air quality permit applications submitted by certified AQPPs; and

(h) professional standards for AQPPs.

(3) The board may not require AQPP certification as a condition of preparing or submitting a notice of intent or operating permit application under this chapter.

(4) Any program under this section shall provide for revocation of any certification

issued under this section if the department determines, through an administrative hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, that the AQPP:

(a) knowingly or negligently submitted false information or data as part of an air quality permit application;

(b) prepared more than three air quality permit applications in one calendar year in a manner that each did not substantially comply with department application requirements; or

(c) prepared any air quality permit application in violation of the professional standards defined by department rule.

Section 7. Section **19-2-110** is amended to read:

19-2-110. Violations -- Notice to violator -- Corrective action orders -- Conference, conciliation, and persuasion by board.

(1) (a) Whenever the executive secretary has reason to believe that a violation of any provision of this chapter or any rule issued under it has occurred, he may serve written notice of the violation upon the alleged violator. The notice shall specify the provision of this chapter or rule alleged to be violated, the facts alleged to constitute the violation, and may include an order that necessary corrective action be taken within a reasonable time.

(b) In lieu of beginning an adjudicative proceeding under Subsection (1)(a), the board may initiate an action pursuant to Section 19-2-115.

(2) Nothing in this chapter prevents the board from making efforts to obtain voluntary compliance through warning, conference, conciliation, persuasion, or other appropriate means.

(3) Hearings may be held before[?] an administrative law judge as provided by Section 19-1-301.

~~[(a) the board;]~~

~~[(b) a hearing examiner of the board; or]~~

~~[(c) a board member especially appointed by the board to hold the hearing.]~~

Section 8. Section **19-2-112** is amended to read:

19-2-112. Generalized condition of air pollution creating emergency -- Sources causing imminent danger to health -- Powers of executive director -- Declaration of emergency.

(1) (a) Title 63G, Chapter 4, Administrative Procedures Act, and any other provision of

law to the contrary notwithstanding, if the executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the executive director, with the concurrence of the governor, shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants.

(b) The order shall fix a place and time, not later than 24 hours after its issuance, for a hearing to be held before the governor.

(c) Not more than 24 hours after the commencement of this hearing, and without adjournment of it, the governor shall affirm, modify, or set aside the order of the executive director.

(2) (a) In the absence of a generalized condition of air pollution referred to in Subsection (1), but if the executive director finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, the executive director may commence adjudicative proceedings under Section 63G-4-502.

(b) Notwithstanding Section 19-1-301, the executive director may conduct the emergency adjudicative proceeding in place of an administrative law judge.

(3) Nothing in this section limits any power that the governor or any other officer has to declare an emergency and act on the basis of that declaration.

Section 9. Section **19-3-103.5** is amended to read:

19-3-103.5. Board authority and duties.

(1) The board may:

(a) require submittal of specifications or other information relating to licensing applications for radioactive materials or registration of radiation sources for review, approval, disapproval, or termination;

(b) issue orders necessary to enforce the provisions of this part, enforce the orders by appropriate administrative and judicial proceedings, and institute judicial proceedings to secure compliance with this part;

(c) (i) hold ~~hearings~~ a hearing that is not an adjudicative proceeding and compel the attendance of witnesses, the production of documents, and other evidence, administer oaths and take testimony, and receive evidence it finds proper, or appoint hearing officers to conduct a hearing that is not an adjudicative proceeding and authorize them to exercise the powers under

524 this Subsection (1);

525 (ii) receive a proposed dispositive action from an administrative law judge as provided
526 by Section 19-1-301; and

527 (iii) (A) approve, approve with modifications, or disapprove a proposed dispositive
528 action; or

529 (B) return the proposed dispositive action to the administrative law judge for further
530 action as directed;

531 (d) settle or compromise any administrative or civil action initiated to compel
532 compliance with this part or any rules adopted under this part;

533 (e) advise, consult, cooperate with, and provide technical assistance to other agencies
534 of the state and federal government, other states, interstate agencies, and affected groups,
535 political subdivisions, industries, and other persons in carrying out the provisions of this part;

536 (f) promote the planning and application of pollution prevention and radioactive waste
537 minimization measures to prevent the unnecessary waste and depletion of natural resources;

538 (g) cooperate with any persons in studies, research, or demonstration projects regarding
539 radioactive waste management or control of radiation sources;

540 (h) accept, receive, and administer grants or other funds or gifts from public and
541 private agencies, including the federal government, for the purpose of carrying out any of the
542 functions of this part;

543 (i) exercise all incidental powers necessary to carry out the purposes of this part;

544 (j) submit an application to the U.S. Food and Drug Administration for approval as an
545 accrediting body in accordance with 42 U.S.C. 263b, Mammography Quality Standards Act of
546 1992;

547 (k) accredit mammography facilities, pursuant to approval as an accrediting body from
548 the U.S. Food and Drug Administration, in accordance with 42 U.S.C. 263b, Mammography
549 Quality Standards Act of 1992; and

550 (l) review the qualifications of and issue certificates of approval to individuals who
551 survey mammography equipment and oversee quality assurance practices at mammography
552 facilities.

553 (2) The board shall:

554 (a) ~~[hear appeals]~~ receive a proposed dispositive action from an administrative law

555 judge on an appeal of final decisions made by the executive secretary [~~or appoint a hearing~~
556 ~~officer to hear the appeal and make recommendations to the board~~] as provided by Section
557 19-1-301;

558 (b) prepare a radioactive waste management plan in compliance with Section 19-3-107
559 as soon as practicable; and

560 (c) impound radioactive material as authorized in Section 19-3-111.

561 (3) Representatives of the board upon presentation of appropriate credentials may enter
562 at reasonable times upon the premises of public and private properties subject to regulation
563 under this part to perform inspections to insure compliance with this part and rules made by the
564 board.

565 Section 10. Section **19-4-104** is amended to read:

566 **19-4-104. Powers of board.**

567 (1) The board may:

568 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
569 Rulemaking Act:

570 (i) establishing standards that prescribe the maximum contaminant levels in any public
571 water system and provide for monitoring, record-keeping, and reporting of water quality related
572 matters;

573 (ii) governing design, construction, operation, and maintenance of public water
574 systems;

575 (iii) granting variances and exemptions to the requirements established under this
576 chapter that are not less stringent than those allowed under federal law;

577 (iv) protecting watersheds and water sources used for public water systems; and

578 (v) governing capacity development in compliance with Section 1420 of the federal
579 Safe Drinking Water Act, 42 U.S.C.A. 300f et seq.;

580 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
581 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
582 secure compliance with this chapter;

583 (c) (i) hold [~~hearings~~] a hearing that is not an adjudicative proceeding relating to the
584 administration of this chapter and compel the attendance of witnesses, the production of
585 documents and other evidence, administer oaths and take testimony, and receive evidence as

necessary; ~~or~~

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding and authorize them to exercise powers under ~~this~~ Subsection (1)(c)(i);

(iii) receive a proposed dispositive action from an administrative law judge as provided by Section 19-1-301; and

(iv) (A) approve, approve with modifications, or disapprove a proposed dispositive action; or

(B) return the proposed dispositive action to the administrative law judge for further action as directed;

(d) require the submission to the executive secretary of plans and specifications for construction of, substantial addition to, or alteration of public water systems for review and approval by the board before that action begins and require any modifications or impose any conditions that may be necessary to carry out the purposes of this chapter;

(e) advise, consult, cooperate with, provide technical assistance to, and enter into agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies, municipalities, local health departments, educational institutions, or others necessary to carry out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of local jurisdictions;

(f) request and accept financial assistance from other public agencies, private entities, and the federal government to carry out the purposes of this chapter;

(g) develop and implement an emergency plan to protect the public when declining drinking water quality or quantity creates a serious health risk and issue emergency orders if a health risk is imminent;

(h) authorize employees or agents of the department, after reasonable notice and presentation of credentials, to enter any part of a public water system at reasonable times to inspect the facilities and water quality records required by board rules, conduct sanitary surveys, take samples, and investigate the standard of operation and service delivered by public water systems;

(i) meet the requirements of federal law related or pertaining to drinking water; and

(j) exercise all other incidental powers necessary to carry out the purpose of this chapter.

(2) (a) The board may adopt and enforce standards and establish fees for certification of operators of any public water system.

(b) The board may not require certification of operators for a water system serving a population of 800 or less except:

(i) to the extent required for compliance with Section 1419 of the federal Safe Drinking Water Act, 42 U.S.C.A. 300f et seq.; and

(ii) for a system that is required to treat its drinking water.

(c) The certification program shall be funded from certification and renewal fees.

(3) Routine extensions or repairs of existing public water systems that comply with the rules and do not alter the system's ability to provide an adequate supply of water are exempt from the provisions of Subsection (1)(d).

(4) (a) The board may adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs or backflow prevention assembly training, repair, and maintenance testing.

(b) The certification program shall be funded from certification and renewal fees.

Section 11. Section **19-5-111** is amended to read:

19-5-111. Notice of violations -- Hearings.

(1) Whenever the board determines there are reasonable grounds to believe that there has been a violation of this chapter or any order of the board, it may give written notice to the alleged violator specifying the provisions that have been violated and the facts that constitute the violation.

(2) The notice shall require that the matters complained of be corrected.

(3) The notice may order the alleged violator to appear before ~~[the board]~~ an administrative law judge as provided by Section 19-1-301 at a time and place specified in the notice and answer the charges.

Section 12. Section **19-5-112** is amended to read:

19-5-112. Hearings conducted by an administrative law judge -- Decisions on denial or revocation of permit conducted by executive director.

(1) (a) ~~[The]~~ Except as provided by Subsection (2), an administrative law judge shall conduct hearings authorized by Section 19-5-111~~[, except hearings for a person who is denied a permit or whose permit has been revoked, may be conducted by the board at a regular or~~

special meeting, or by an examining officer designated by the board] in accordance with Section 19-1-301.

(b) All decisions shall be rendered by a majority of the board.

~~[(2) (a) A hearing for a person who has been denied a permit, or who has had a permit revoked, shall be conducted before the executive director or his designee.]~~

(2) (a) An administrative law judge shall conduct, on the executive director's behalf, a hearing regarding an appeal of a permit decision for which the state has assumed primacy under the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(b) Notwithstanding Subsection 19-1-301(6), the administrative law judge shall submit to the executive director a proposed dispositive action.

(c) The executive director may:

(i) approve, approve with modifications, or disapprove a proposed dispositive action submitted to the executive director under Subsection (2)(b); or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

~~[(b)]~~ (d) The decision of the executive director is final and binding on all parties as a final determination of the board unless stayed or overturned on appeal.

Section 13. Section **19-6-104** is amended to read:

19-6-104. Powers of board -- Creation of statewide solid waste management plan.

(1) The board shall:

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

(b) carry out inspections pursuant to Section 19-6-109;

(c) (i) ~~hold [hearings]~~ a hearing that is not an adjudicative proceeding and compel the attendance of witnesses, the production of documents, and other evidence, administer oaths and take testimony, and receive evidence it finds proper, or appoint hearing officers to conduct a hearing that is not an adjudicative proceeding who shall be delegated these powers;

(ii) receive a proposed dispositive action from an administrative law judge as provided by Section 19-1-301; and

679 (iii) (A) approve, approve with modifications, or disapprove a proposed dispositive
680 action; or

681 (B) return the proposed dispositive action to the administrative law judge for further
682 action as directed;

683 (d) issue orders necessary to effectuate the provisions of this part and implementing
684 rules and enforce them by administrative and judicial proceedings, and cause the initiation of
685 judicial proceedings to secure compliance with this part;

686 (e) settle or compromise any administrative or civil action initiated to compel
687 compliance with this part and any rules adopted under this part;

688 (f) require submittal of specifications or other information relating to hazardous waste
689 plans for review, and approve, disapprove, revoke, or review the plans;

690 (g) advise, consult, cooperate with, and provide technical assistance to other agencies
691 of the state and federal government, other states, interstate agencies, and affected groups,
692 political subdivisions, industries, and other persons in carrying out the purposes of this part;

693 (h) promote the planning and application of resource recovery systems to prevent the
694 unnecessary waste and depletion of natural resources;

695 (i) meet the requirements of federal law related to solid and hazardous wastes to insure
696 that the solid and hazardous wastes program provided for in this part is qualified to assume
697 primacy from the federal government in control over solid and hazardous waste;

698 (j) (i) require any facility, including those listed in Subsection (1)(j)(ii), that is intended
699 for disposing of nonhazardous solid waste or wastes listed in Subsection (1)(j)(ii)(B) to submit
700 plans, specifications, and other information required by the board to the board prior to
701 construction, modification, installation, or establishment of a facility to allow the board to
702 determine whether the proposed construction, modification, installation, or establishment of the
703 facility will be in accordance with rules made under this part;

704 (ii) facilities referred to in Subsection (1)(j)(i) include:

705 (A) any incinerator that is intended for disposing of nonhazardous solid waste; and

706 (B) except for facilities that receive the following wastes solely for the purpose of
707 recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal,
708 and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas
709 emission control waste generated primarily from the combustion of coal or other fossil fuels;

wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes; and

(k) exercise all other incidental powers necessary to carry out the purposes of this part.

(2) (a) The board shall establish a comprehensive statewide solid waste management plan by January 1, 1994.

(b) The plan shall:

(i) incorporate the solid waste management plans submitted by the counties;

(ii) provide an estimate of solid waste capacity needed in the state for the next 20 years;

(iii) assess the state's ability to minimize waste and recycle;

(iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste needs and existing capacity;

(v) evaluate facility siting, design, and operation;

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the preservation of the public health and the environment.

(c) The board shall consider the economic viability of solid waste management strategies prior to incorporating them into the plan and shall consider the needs of population centers.

(d) The board shall review and modify the comprehensive statewide solid waste management plan no less frequently than every five years.

(3) (a) The board shall determine the type of solid waste generated in the state and tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid waste management plan.

(b) The board shall review and modify the inventory no less frequently than once every five years.

(4) Subject to the limitations contained in Subsection 19-6-102(18)(b), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

Section 14. Section **19-6-704** is amended to read:

19-6-704. Powers and duties of the board.

(1) The board shall make rules under Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, as necessary to administer this part and to comply with 40 CFR 279, Standards for the Management of Used Oil, to ensure the state's primacy to manage used oil under 40 CFR 279. For these purposes the board shall:

~~[(a) conduct adjudicative hearings as required in this part under Title 63G, Chapter 4, Administrative Procedures Act;]~~

(a) (i) receive a proposed dispositive action from an administrative law judge as provided by Section 19-1-301; and

(ii) (A) approve, approve with modifications, or disapprove a proposed dispositive action; or

(B) return the proposed dispositive action to the administrative law judge for further action as directed;

(b) establish by rule conditions and procedures for registration and revocation of registration as a used oil collection center, used oil aggregation point, or DIYer used oil collection center;

(c) provide by rule that used oil aggregation points that do not accept DIYer used oil are required to comply with used oil collection standards under this part, but are not required to be permitted or registered;

(d) establish by rule conditions and fees required to obtain permits and operate as used oil transporters, used oil transfer facilities, used oil processors and rerefiners, and used oil fuel marketers;

(e) establish by rule the amount of liability insurance or other financial responsibility the applicant shall have to qualify for a permit under Subsection (1)(d);

(f) establish by rule the form and amount of reclamation surety required for reclamation of any site or facility required to be permitted under this part;

(g) after public notice and opportunity for a public hearing, hear and act on permit issues appealed under Subsection 19-6-712(2);

(h) establish by rule standards for tracking, analysis, and recordkeeping regarding used oil subject to regulation under this part, including:

(i) manifests for handling and transferring used oil;

(ii) analyses necessary to determine if used oil is on-specification or off-specification;

(iii) records documenting date, quantities, and character of used oil transported,

processed, transferred, or sold;

(iv) records documenting persons between whom transactions under this subsection occurred; and

(v) exemption of DIYer used oil collection centers from this subsection except as necessary to verify volumes of used oil picked up by a permitted transporter and the transporter's name and federal EPA identification number;

(i) authorize inspections and audits of facilities, centers, and operations subject to regulation under this part;

(j) establish by rule standards for:

(i) used oil generators;

(ii) used oil collection centers;

(iii) DIYer used oil collection centers;

(iv) aggregation points;

(v) curbside used oil collection programs;

(vi) used oil transporters;

(vii) used oil transfer facilities;

(viii) used oil burners;

(ix) used oil processors and rerefiners; and

(x) used oil marketers;

(k) establish by rule standards for determining on-specification and off-specification used oil and specified mixtures of used oil, subject to Section 19-6-707 regarding rebuttable presumptions;

(l) establish by rule standards for closure, remediation, and response to releases involving used oil; and

(m) establish a public education program to promote used oil recycling and use of used oil collection centers.

(2) The board may:

(a) (i) hold ~~hearings~~ a hearing that is not an adjudicative proceeding relating to any aspect of or matter in the administration of this part and compel the attendance of witnesses and the production of documents and other evidence, administer oaths and take testimony, and receive evidence as necessary;

803 (ii) receive a proposed dispositive action from an administrative law judge as provided
804 by Section 19-1-301; and

805 (iii) (A) approve, approve with modifications, or disapprove a proposed dispositive
806 action; or

807 (B) return the proposed dispositive action to the administrative law judge for further
808 action as directed;

809 (b) require retention and submission of records required under this part; and

810 (c) require audits of records and recordkeeping procedures required under this part and
811 rules made under this part, except that audits of records regarding the fee imposed and
812 collected by the commission under Sections 19-6-714 and 19-6-715 are the responsibility of the
813 commission under Section 19-6-716.

814 Section 15. **Repealer.**

815 This bill repeals:

816 Section **19-2-111, Review of orders of hearing examiner -- Procedure.**

Legislative Review Note
as of 2-12-09 10:19 AM

Office of Legislative Research and General Counsel

AGENDA ITEM 8

ENGINEERING RULE AMENDMENTS – Bob Hart
and Bill Birkes

8. a. R309-105-6(2)(b): SUBMISSION ITEMS
ASSOCIATION WITH EXCEPTION REQUEST

PROPOSED SUBSTANTIVE CHANGES FOR RULE R309-105

R309-105-6(2)(b) indicates “There may be times in which the requirements of the applicable standards contained in R309-500 through R309-550 are not appropriate. Thus, the Executive Secretary may grant an "exception" to portions of these standards if it can be shown that the granting of such an exception will not jeopardize the public health” with no further explanation of how one goes about requesting such an “exception.” Staff prepared a standard form letter which outlines four items of submission and one general statement before such a request will be considered, and have used it for approximately one year.

We believe it would be in the best interest of all parties if these few items were included within the rule paragraph mentioned above.

For this reason staff proposes the following amendment to R309-105-6(2)(b) which will add the four items and one general statement we have included in our form letter.

Staff Recommendation: Staff, believing that the above mentioned changes are substantive, ask Board members review the proposed changes and, if they agree, authorize staff to start the rulemaking process and file the proposed rule amendments for publication in the Utah Bulletin of April 1, 2009.

R309. Environmental Quality, Drinking Water.

R309-105. Administration: General Responsibilities of Public Water Systems.

R309-105-1. Purpose.

The purpose of this rule is to set forth the general responsibilities of public water systems, water system owners and operators.

- R309-105-2 Authority.
- R309-105-3 Definitions.
- R309-105-4 General.
- R309-105-5 Exemptions from Monitoring Requirements.
- R309-105-6 Construction of Public Drinking Water Facilities.
- R309-105-7 Source Protection Plans.
- R309-105-8 Existing Water System Facilities.
- R309-105-9 Minimum Pressure.
- R309-105-10 Operation and Maintenance Procedures.
- R309-105-11 Operator Certification.
- R309-105-12 Cross Connection Control.
- R309-105-13 Finished Water Quality.
- R309-105-14 Operational Reports.
- R309-105-15 Annual Reports.
- R309-105-16 Reporting Test Results.
- R309-105-17 Record Maintenance.
- R309-105-18 Emergencies.

R309-105-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-105-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-105-4. General.

Water suppliers are responsible for the quality of water delivered to their customers. In order to give the public reasonable assurance that the water which they are consuming is satisfactory, the Board has established rules for the design, construction, water quality, water treatment, contaminant monitoring, source protection, operation and maintenance of public water supplies.

R309-105-5. Exemptions from Monitoring Requirements.

(1) The applicable requirements specified in R309-205, R309-210 and R309-215 for monitoring shall apply to each public water system, unless the public water system meets all of the following conditions:

- (a) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);
- (b) Obtains all of its water from, but is not owned or operated by, a public water system to which such regulations

apply;

(c) Does not sell water to any person; and

(d) Is not a carrier which conveys passengers in interstate commerce.

(2) When a public water system supplies water to one or more other public water systems, the Executive Secretary may modify the monitoring requirements imposed by R309-205, R309-210 and R309-215 to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(3) In no event shall the Executive Secretary authorize modifications in the monitoring requirements which are less stringent than requirements established by the Federal Safe Drinking Water Act.

R309-105-6. Construction of Public Drinking Water Facilities.

The following requirements pertain to the construction of public water systems.

(1) Approval of Engineering Plans and Specifications

(a) Complete plans and specifications for all public drinking water projects, as described in R309-500-5, shall be approved in writing by the Executive Secretary prior to the commencement of construction. A 30-day review time should be assumed.

(b) Appropriate engineering reports, supporting information and master plans may also be required by the Executive Secretary as needed to evaluate the proposed project. A certificate of convenience and necessity or an exemption therefrom, issued by the Public Service Commission, shall be filed with the Executive Secretary prior to approval of any plans or specifications for projects described in R309-500-4(1) as new or previously un-reviewed water system~~[105-6(3)(a)]~~.

(2) Acceptable Design and Construction Methods

(a) The design and construction methods of all public drinking water facilities shall conform to the applicable standards contained in R309-500 through R309-550 of these rules. The Executive Secretary may require modifications to plans and specifications before approval is granted.

(b) There may be times in which the requirements of the applicable standards contained in R309-500 through R309-550 are not appropriate. Thus, the Executive Secretary may grant an "exception" to portions of these standards if it can be shown that the granting of such an exception will not jeopardize the public health. In order for the Executive Secretary to consider such a request, the Division asks that it receive a written request directly from the management of the public drinking water system, preferably on system letterhead, that includes the following:

(i) citation of the specific rule for which the "exception" is being requested;

(ii) a detailed explanation, drawings may be included, of why the conditions of rule cannot be met;

(iii) what the system proposes, drawings may be included, in lieu of rule;

(iv) justification the proposed alternative will protect the public health to a similar or better degree than required by rule.

Physical conditions as well as cost may be justification for requesting an "exception-to-rule."

(c) Alternative or new treatment techniques may be developed which are not specifically addressed by the applicable standards contained in R309-500 through R309-550. These treatment techniques may be accepted by the Executive Secretary if it can be shown that:

(i) They will result in a finished water meeting the requirements of R309-200 of these regulations.

(ii) The technique will produce finished water which will protect public health to the same extent provided by comparable treatment processes outlined in the applicable standards contained in R309-204 and R309-500 through R309-550.

(iii) The technique is as reliable as any comparable treatment process governed by the applicable standards contained in R309-204 and R309-500 through R309-550.

(3) Description of "Public Drinking Water Project"

Refer to R309-500-5 for the description of a public drinking water project and R309-500-6 for required items to be submitted for plan approval.

(4) Specifications for the drilling of a public water supply well may be prepared and submitted by a licensed well driller holding a current Utah Well Driller's Permit if authorized by the Executive Secretary.

(5) Drawing Quality and Size

Drawings which are submitted shall be compatible with Division of Drinking Water Document storage. Drawings which are illegible or of unusual size will not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(6) Requirements After Approval of Plans for Construction

After the approval of plans for construction, and prior to operation of any facilities dealing with drinking water, the items required by R309-500-9 shall be submitted and an operating permit received.

R309-105-7. Source Protection.

(1) Public Water Systems are responsible for protecting their sources of drinking water from contamination. R309-600 and R309-605 sets forth minimum requirements to establish a uniform, statewide program for implementation by PWSs to protect their sources of drinking water. PWSs are encouraged to enact more stringent programs to protect their sources of drinking water if they decide they are necessary.

(2) R309-600 applies to ground-water sources and to ground-water sources which are under the direct influence of surface water which are used by PWSs to supply their systems with drinking water.

(3) R309-605 applies to PWSs which obtain surface water prior to treatment and distribution and to PWSs obtaining water from ground-water sources which are under the direct influence of

surface water. However, compliance with this rule is voluntary for public transient non-community water systems to the extent that they are using existing surface water sources of drinking water.

R309-105-8. Existing Water System Facilities.

(1) All public water systems shall deliver water meeting the applicable requirements of R309-200 of these rules.

(2) Existing facilities shall be brought into compliance with R309-500 through R309-550 or shall be reliably capable of delivering water meeting the requirements of R309-200.

(3) In situations where a water system is providing water of unsatisfactory quality, or when the quality of the water or the public health is threatened by poor physical facilities, the water system management shall solve the problem(s).

R309-105-9. Minimum Water Pressure.

(1) Unless otherwise specifically approved by the Executive Secretary, no water supplier shall allow any connection to the water system where the dynamic water pressure at the point of connection will fall below 20 psi during the normal operation of the water system. Water systems approved prior to January 1, 2007, are required to maintain the above minimum dynamic water pressure at all locations within their distribution system. Existing public drinking water systems, approved prior to January 1, 2007, which expand their service into new areas or supply new subdivisions shall meet the minimum dynamic water pressure requirements in R309-105-9(2) at any point of connection in the new service areas or new subdivisions.

(2) Unless otherwise specifically approved by the Executive Secretary, new public drinking water systems constructed after January 1, 2007 shall be designed and shall meet the following minimum water pressures at points of connection:

(a) 20 psi during conditions of fire flow and fire demand experienced during peak day demand;

(b) 30 psi during peak instantaneous demand; and

(c) 40 psi during peak day demand.

(3) Individual home booster pumps are not allowed as indicated in R309-540-5(4)(c).

R309-105-10. Operation and Maintenance Procedures.

All routine operation and maintenance of public water supplies shall be carried out with due regard for public health and safety. The following sections describe procedures which shall be used in carrying out some common operation and maintenance procedures.

(1) Chemical Addition

(a) Water system operators shall determine that all chemicals added to water intended for human consumption are suitable for potable water use and comply with ANSI/NSF Standard 60.

(b) No chemicals or other substances shall be added to public water supplies unless the chemical addition facilities and chemical type have been reviewed and approved by the Division of

Drinking Water.

(c) Chlorine, when used in the distribution system, shall be added in sufficient quantity to achieve either "breakpoint" and yield a detectable free chlorine residual or a detectable combined chlorine residual in the distribution system at points to be determined by the Executive Secretary. Residual checks shall be taken daily by the operator of any system using disinfectants. The Executive Secretary may, however, reduce the frequency of residual checks if he determines that this would be an unwarranted hardship on the water system operator and, furthermore, the disinfection equipment has a verified record of reliable operation. Suppliers, when checking for residuals, shall use test kits and methods which meet the requirements of the U.S. EPA. The "DPD" test method is recommended for free chlorine residuals. Information on the suppliers of this equipment is available from the Division of Drinking Water.

(2) New and Repaired Mains

(a) All new water mains shall meet the requirements of R309-550-6 with regard to materials of construction. All products in contact with culinary water shall comply with ANSI/NSF Standard 61.

(b) All new and repaired water mains or appurtenances shall be disinfected in accordance with AWWA Standard C651-92. The chlorine solution shall be flushed from the water main with potable water prior to the main being placed in use.

(c) All products used to recoat the interiors of storage structures and which may come in contact with culinary water shall comply with ANSI/NSF Standard 61.

(3) Reservoir Maintenance and Disinfection

After a reservoir has been entered for maintenance or re-coating, it shall be disinfected prior to being placed into service. Procedures given in AWWA Standard C651-92 shall be followed in this regard.

(4) Spring Collection Area Maintenance

(a) Spring collection areas shall be periodically cleared of deep rooted vegetation to prevent root growth from clogging collection lines. Frequent hand or mechanical clearing of spring collection areas is strongly recommended. It is advantageous to encourage the growth of grasses and other shallow rooted vegetation for erosion control and to inhibit the growth of more detrimental flora.

(b) No pesticide (e.g., herbicide) may be applied on a spring collection area without the prior written approval of the Executive Secretary. Such approval shall be given 1) only when acceptable pesticides are proposed; 2) when the pesticide product manufacturer certifies that no harmful substance will be imparted to the water; and 3) only when spring development meets the requirements of these rules (see R309-515-7).

(5) Security

All water system facilities such as spring junction boxes, well houses, reservoirs, and treatment facilities shall be secure.

(6) Seasonal Operation

Water systems operated seasonally shall be disinfected and flushed according to the techniques given in AWWA Standard C651-92

and C652-92 prior to each season's use. A satisfactory bacteriologic sample shall be achieved prior to use. During the non-use period, care shall be taken to close all openings into the system.

(7) Pump Lubricants

All oil lubricated pumps for culinary wells shall utilize mineral oils suitable for human consumption as determined by the Executive Secretary. To assure proper performance, and to prevent the voiding of any warranties which may be in force, the water supplier should confirm with individual pump manufacturers that the oil which is selected will have the necessary properties to perform satisfactorily.

R309-105-11. Operator Certification.

All community and non-transient non-community water systems or any public system that employs treatment techniques for surface water or ground water under the direct influence of surface water shall have an appropriately certified operator in accordance with the requirements of these rules. Refer to R309-300, Certification Rules for Water Supply Operators, for specific requirements.

R309-105-12. Cross Connection Control.

(1) The water supplier shall not allow a connection to his system which may jeopardize its quality and integrity. Cross connections are not allowed unless controlled by an approved and properly operating backflow prevention assembly. The requirements of Chapter 6 of the 2006 International Plumbing Code and its amendments as adopted by the Department of Commerce under R156-56 shall be met with respect to cross connection control and backflow prevention.

(2) Each water system shall have a functioning cross connection control program. The program shall consist of five designated elements documented on an annual basis. The elements are:

(a) a legally adopted and functional local authority to enforce a cross connection control program (i.e., ordinance, bylaw or policy);

(b) providing public education or awareness material or presentations;

(c) an operator with adequate training in the area of cross connection control or backflow prevention;

(d) written records of cross connection control activities, such as, backflow assembly inventory; and

(e) test history and documentation of on-going enforcement (hazard assessments and enforcement actions) activities.

(3) Suppliers shall maintain, as proper documentation, an inventory of each pressure atmospheric vacuum breaker, double check valve, reduced pressure zone principle assembly, and high hazard air gap used by their customers, and a service record for each such assembly.

(4) Backflow prevention assemblies shall be inspected and tested at least once a year, by an individual certified for such work as specified in R309-305. Suppliers shall maintain, as proper documentation, records of these inspections. This testing

responsibility may be borne by the water system or the water system management may require that the customer having the backflow prevention assembly be responsible for having the device tested.

(5) Suppliers serving areas also served by a pressurized irrigation system shall prevent cross connections between the two.

Requirements for pressurized irrigation systems are outlined in Section 19-4-112 of the Utah Code.

R309-105-13. Finished Water Quality.

All public water systems are required to monitor their water according to the requirements of R309-205, R309-210 and R309-215 to determine if the water quality standards of R309-200 have been met. Water systems are also required to keep records and, under certain circumstances, give public notice as required in R309-220.

R309-105-14. Operational Reports.

(1) Treatment techniques for acrylamide and epichlorohydrin.

(a) Each public water system shall certify annually in writing to the Executive Secretary (using third party or manufacturer's certification) that when acrylamide and epichlorohydrin are used in drinking water systems, the combination (or product) of dose and monomer level does not exceed the levels specified in R309-215-8(2)(c).

(b) Certifications may rely on manufacturers data.

(2)(a) All water systems using chemical addition or specialized equipment for the treatment of drinking water shall regularly complete operational reports. This information shall be evaluated to confirm that the treatment process is being done properly, resulting in successful treatment.

(b) The information to be provided, and the frequency at which it is to be gathered and reported, will be determined by the Executive Secretary.

R309-105-15. Annual Reports.

All community water systems shall be required to complete annual report forms furnished by the Division of Drinking Water. The information to be provided should include: the status of all water system projects started during the previous year; water demands met by the system; problems experienced; and anticipated projects.

R309-105-16. Reporting Test Results.

(1) If analyses are made by certified laboratories other than the state laboratory, these results shall be forwarded to the Division as follows:

(a) The supplier shall report to the Division the analysis of water samples which fail to comply with the Primary Drinking Water Standards of R309-200. Except where a different reporting period is specified in R309-205, R309-210 or R309-215, this report shall be submitted within 48 hours after the supplier receives the report from his lab. The Division may be reached at (801)536-4200.

(b) Monthly summaries of bacteriologic results shall be

submitted within ten days following the end of each month.

(c) All results of TTHM samples shall be reported to the Division within 10 days of receipt of analysis for systems monitoring pursuant to R309-210-9.

(d) For all samples other than samples showing unacceptable results, bacteriologic samples or TTHM samples, the time between the receipt of the analysis and the reporting of the results to the Division shall not exceed 40 days.

(e) Arsenic sampling results shall be reported to the nearest 0.001 mg/L.

(2) Disinfection byproducts, maximum residual disinfectant levels and disinfection byproduct precursors and enhanced coagulation or enhanced softening. This section applies to the reporting requirements of R309-210-8, R309-215-12 and R309-215-13.

For the reporting requirements of R309-210-9, R309-210-10 and R309-215-15 are contained within R309-210-9, R309-210-10 and R309-215-15, respectively.

(a) Systems required to sample quarterly or more frequently shall report to the State within 10 days after the end of each quarter in which samples were collected. Systems required to sample less frequently than quarterly shall report to the State within 10 days after the end of each monitoring period in which samples were collected. The Executive Secretary may choose to perform calculations and determine whether the MCL was exceeded, in lieu of having the system report that information.

(b) Disinfection byproducts. Systems shall report the information specified.

(i) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) on a quarterly or more frequent basis shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of all samples taken in the last quarter.

(D) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.

(E) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(ii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than quarterly (but at least annually) shall report:

(A) The number of samples taken during the last year.

(B) The location, date, and result of each sample taken during the last monitoring period.

(C) The arithmetic average of all samples taken over the last year.

(D) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than annually shall report:

(A) The location, date, and result of the last sample taken.

(B) Whether, based on R309-210-8(6)(b)(i), the MCL was

violated.

(iv) Systems monitoring for chlorite under the requirements of R309-210-8(2) shall report:

(A) The number of entry point samples taken each month for the last 3 months.

(B) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.

(C) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.

(D) Whether, based on R309-210-8(6)(b)(ii), the MCL was violated.

(v) System monitoring for bromate under the requirements of R309-210-8(2) shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.

(D) Whether, based on R309-210-8(6)(b)(iii), the MCL was violated.

(c) Disinfectants. Systems shall report the information specified to the Executive Secretary within ten days after the end of each month the system serves water to the public, except as otherwise noted:

(i) Systems monitoring for chlorine or chloramines under the requirements of R309-210-8(3)(a) shall report and certify, by signing the report form provided by the Executive Secretary, that all the information provided is accurate and correct and that any chemical introduced into the drinking water complies with ANSI/NSF Standard 60:

(A) The number of samples taken during each month of the last quarter.

(B) The monthly arithmetic average of all samples taken in each month for the last 12 months.

(C) The arithmetic average of all monthly averages for the last 12 months.

(D) The additional data required in R309-210-8(3)(a)(ii).

(E) Whether, based on R309-210-8(6)(c)(i), the MRDL was violated.

(ii) Systems monitoring for chlorine dioxide under the requirements of R309-210-8(3) shall report:

(A) The dates, results, and locations of samples taken during the last quarter.

(B) Whether, based on R309-210-8(6)(c)(ii), the MRDL was violated.

(C) Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

(d) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Systems shall report the information specified.

(i) Systems monitoring monthly or quarterly for TOC under

the requirements of R309-215-12 and required to meet the enhanced coagulation or enhanced softening requirements in R309-215-13(2)(b) or (c) shall report:

(A) The number of paired (source water and treated water) samples taken during the last quarter.

(B) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.

(C) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.

(D) Calculations for determining compliance with the TOC percent removal requirements, as provided in R309-215-13(3)(a).

(E) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in R309-215-13(2) for the last four quarters.

(ii) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and meeting one or more of the alternative compliance criteria in R309-215-13(1)(b) or (c) shall report:

(A) The alternative compliance criterion that the system is using.

(B) The number of paired samples taken during the last quarter.

(C) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter.

(D) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in R309-215-13(1)(b)(i) or (iii) or of treated water TOC for systems meeting the criterion in R309-215-13(1)(b)(ii).

(E) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in R309-215-13(1)(b)(v) or of treated water SUVA for systems meeting the criterion in R309-215-13(1)(b)(vi).

(F) The running annual average of source water alkalinity for systems meeting the criterion in R309-215-13(1)(b)(iii) and of treated water alkalinity for systems meeting the criterion in R309-215-13(1)(c)(i).

(G) The running annual average for both TTHM and HAA5 for systems meeting the criterion in R309-215-13(1)(b)(iii) or (iv).

(H) The running annual average of the amount of magnesium hardness removal (as CaCO_3 , in mg/L) for systems meeting the criterion in R309-215-13(1)(c)(ii).

(I) Whether the system is in compliance with the particular alternative compliance criterion in R309-215-13(1)(b) or (c).

(3) The public water system, within 10 days of completing the public notification requirements under R309-220 for the initial public notice and any repeat notices, shall submit to the Division a certification that it has fully complied with the public notification regulations. The public water system shall include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.

(4) All samples taken in accordance with R309-215-6 shall be submitted within 10 days following the end of the operational period specified for that particular treatment. Finished water samples results for the contaminant of concern that exceed the Primary Drinking Water Standards of R309-200, shall be reported to the Division within 48 hours after the supplier receives the report. The Division may be reached at (801) 536-4000.

(5) Documentation of operation and maintenance for point-of-use or point-of-entry treatment units shall be provided to the Division annually. The Division shall receive the documentation by January 31 annually.

R309-105-17. Record Maintenance.

All public water systems shall retain on their premises or at convenient location near their premises the following records:

(1) Records of microbiological analyses and turbidity analyses made pursuant to this Section shall be kept for not less than five years. Records of chemical analyses made pursuant to this Section shall be kept for not less than ten years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:

(a) The date, place and time of sampling, and the name of the person who collected the sample;

(b) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample.

(c) Date of analysis;

(d) Laboratory and person responsible for performing analysis;

(e) The analytical technique/method used; and

(f) The results of the analysis.

(2) Lead and copper recordkeeping requirements.

(a) Any water system subject to the requirements of R309-210-6 shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Executive Secretary determinations, and any other information required by R309-210-6.

(b) Each water system shall retain the records required by this section for no fewer than 12 years.

(3) Records of action taken by the system to correct violations of primary drinking water regulations shall be kept for a period not less than three years after the last action taken with respect to the particular violation involved.

(4) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, State or Federal agency, shall be kept for a period not less than ten years after completion of the sanitary survey involved.

(5) Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than five years following the expiration of such variance or exemption.

(6) Records that concern the tests of a backflow prevention

assembly and location shall be kept by the system for a minimum of not less than five years from the date of the test.

(7) Copies of public notices issued pursuant to R309-220 and certifications made to the Executive Secretary agency pursuant to R309-105-16 shall be kept for three years after issuance.

(8) Copies of monitoring plans developed pursuant to these rules shall be kept for the same period of time as the records of analyses taken under the plan are required to be kept under R309-105-17(1), except as otherwise specified. In all cases the monitoring plans shall be kept as long as the any associated report.

(9) A water system must retain a complete copy of your IDSE report submitted under this section for 10 years after the date that you submitted your IDSE report. If the Executive Secretary modifies the R309-210-10 monitoring requirements that you recommended in your IDSE report or if the Executive Secretary approves alternative monitoring locations, you must keep a copy of the Executive Secretary's notification on file for 10 years after the date of the Executive Secretary's notification. You must make the IDSE report and any Executive Secretary notification available for review by the Executive Secretary or the public.

(10) A water system must retain a complete copy of its 40/30 certification submitted under this R309-210-9 for 10 years after the date that you submitted your certification. You must make the certification, all data upon which the certification is based, and any Executive Secretary notification available for review by the Executive Secretary or the public.

(11) A water subject to the disinfection profiling requirements of R309-215-14 shall keep must keep results of profile (raw data and analysis) indefinitely.

(12) A water system subject to the disinfection benchmarking requirements of R309-215-14 shall keep must keep results of profile (raw data and analysis) indefinitely.

R309-105-18. Emergencies.

(1) The Executive Secretary or the local health department shall be informed by telephone by a water supplier of any "emergency situation". The term "emergency situation" includes the following:

(a) The malfunction of any disinfection facility such that a detectable residual cannot be maintained at all points in the distribution system.

(b) The malfunction of any "complete" treatment plant such that a clearwell effluent turbidity greater than 5 NTU is maintained longer than fifteen minutes.

(c) Muddy or discolored water (which cannot be explained by air entrainment or re-suspension of sediments normally deposited within the distribution system) is experienced by a significant number of individuals on a system.

(d) An accident has occurred which has, or could have, permitted the entry of untreated surface water and/or other contamination into the system (e.g. break in an unpressurized transmission line, flooded spring area, chemical spill, etc.)

(e) A threat of sabotage has been received by the water

supplier or there is evidence of vandalism or sabotage to any public drinking water supply facility which may affect the quality of the delivered water.

(f) Any instance where a consumer reports becoming sick by drinking from a public water supply and the illness is substantiated by a doctor's diagnosis (unsubstantiated claims should also be reported to the Division of Drinking Water, but this is not required).

(2) If an emergency situation exists, the water supplier shall then contact the Division in Salt Lake City within eight hours. Division personnel may be reached at all times through 801-536-4123.

(3) All suppliers are advised to develop contingency plans to cope with possible emergency situations. In many areas of the state the possibility of earthquake damage shall be realistically considered.

KEY: drinking water, watershed management

Date of Enactment or Last Substantive Amendment: May 14, 2007

Notice of Continuation: May 16, 2005

Authorizing, and Implemented or Interpreted Law: 19-4-104; 63-46b-4

8. b. R309-110-4: MASTER PLAN DEFINITION

PROPOSED SUBSTANTIVE CHANGES FOR RULE R309-110

Many places within the rules of R309 reference is made to “master plans” without any indication of the elements considered as essential parts of such a plan

We believe it would be in the best interest of all parties if an outline of the essential parts of such a plan were included in rule and believe that the best place is within R309-110-4 under a definition of “master plan.”

For this reason staff proposes the following amendment to R309-110-4 adding a definition of “master plan,” listed alphabetically followed by the essential elements.

Staff Recommendation: Staff, believing that the above mentioned changes are substantive, ask Board members review the proposed changes and, if they agree, authorize staff to start the rulemaking process and file the proposed rule amendments for publication in the Utah Bulletin of April 1, 2009.

R309. Environmental Quality, Drinking Water.

R309-110. Administration: Definitions.

R309-110-1. Purpose.

The purpose of this rule is to define certain terms and expressions that are utilized throughout all rules under R309. Collectively, those rules govern the administration, monitoring, operation and maintenance of public drinking water systems as well as the design and construction of facilities within said systems.

R309-110-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-110-3. Acronyms.

As used in R309:

"AF" means Acre Foot.

"AWOP" means Area Wide Optimization Program.

"AWWA" means American Water Works Association.

"BAT" means Best Available Technology.

"C" means Residual Disinfectant Concentration.

"CCP" means Composite Correction Program.

"CCR" means Consumer Confidence Report.

"CEU" means Continuing Education Unit.

"CFE" means Combined Filter Effluent.

"CFR" means Code of Federal Regulations.

"cfs" means Cubic Feet Per Second.

"CPE" means Comprehensive Performance Evaluation.

"CT" means Residual Concentration multiplied by Contact Time.

"CTA" means Comprehensive Technical Assistance.

"CWS" means Community Water System.

"DBPs" means Disinfection Byproducts.

"DE" means Diatomaceous Earth.

"DTF" means Data Transfer Format.

"DWSP" means Drinking Water Source Protection.

"EP" means Entry Point.

"EPA" means Environmental Protection Agency.

"ERC" means Equivalent Residential Connection.

"FBRR" means Filter Backwash Recycling Rule.

"fps" means Feet Per Second

"FR" means Federal Register.

"gpd" means Gallons Per Day.

"gpm" means Gallons Per Minute.

"gpm/sf" means Gallons Per Minute Per Square Foot.

"GWR" means Ground Water Rule.

"GWUDI" means Ground Water Under Direct Influence of Surface Water.

"HAA5s" means Haloacetic Acids (Five).

"HPC" means Heterotrophic Plate Count.

"ICR" means Information Collection Rule of 40 CRF 141 subpart

M.

"IESWTR" means Interim Enhanced Surface Water Treatment Rule.

"IFE" means Individual Filter Effluent.

"LT1ESWTR" means Long Term 1 Enhanced Surface Water Treatment Rule.

"LT2ESWTR" means Long Term 2 Enhanced Surface Water Treatment Rule.

"MCL" means Maximum Contaminant Level.

"MCLG" means Maximum Contaminant Level Goal.

"M and R" means Monitoring and Reporting.

"MDBP" means Microbial-Disinfection Byproducts.

"M/DBP Cluster" means Microbial-Disinfectants/Disinfection Byproducts Cluster.

"MG" means Million Gallons.

"MGD" means Million Gallons Per Day.

"mg/L" means Milligrams Per Liter

"MRDL" means Maximum Residual Disinfectant Level.

"MRDLG" means Maximum Residual Disinfectant Level Goal.

"NCWS" means Non-Community Water System.

"NTNC" means Non-Transient Non-Community.

"NTU" means Nephelometric Turbidity Unit.

"PN" means Public Notification.

"POE" means Point-of-Entry.

"POU" means Point-of-Use.

"PWS" means Public Water System.

"PWS-ID" means Public Water System Identification Number.

"RTC" means Return to Compliance.

"SDWA" means Safe Drinking Water Act.

"SDWIS/FED" means Safe Drinking Water Information System/Federal Version.

"SDWIS/STATE" means Safe Drinking Water Information System/State Version.

"SNC" means Significant Non-Compliance.

"Stage 1 DBPR" means Stage 1 Disinfectants and Disinfection Byproducts Rule.

"Stage 2 DBPR" means Stage 2 Disinfectants and Disinfection Byproducts Rule.

"Subpart H" means A PWS using SW or GWUDI.

"Subpart P" means A PWS using SW or GWUDI and serving at least 10,000 people.

"Subpart S" means Provisions of 40 CRF 141 subpart S commonly referred to as the Information Collection Rule.

"Subpart T" means A PWS using SW or GWUDI and serving less than 10,000 people.

"SUVA" means Specific Ultraviolet Absorption.

"SW" means Surface Water.

"SWAP" means Source Water Assessment Program.

"SWTR" means Surface Water Treatment Rule.

"T" means Contact Time.

"TA" means Technical Assistance.

"TCR" means Total Coliform Rule.

"TNCWS" means Transient Non-Community Water System.

"TNTC" means Too Numerous To Count.
"TOC" means Total Organic Carbon.
"TT" means Treatment Technique.
"TTHM" means Total Trihalomethanes.
"UAC" means Utah Administrative Code.
"UPDWR" means Utah Public Drinking Water Rules (R309 of the UAC).
"WCP" means Watershed Control Program.
"WHP" means Wellhead Protection.

R309-110-4. Definitions.

As used in R309:

"Action Level" means the concentration of lead or copper in drinking water tap samples (0.015 mg/l for lead and 1.3 mg/l for copper) which determines, in some cases, the corrosion treatment, public education and lead line replacement requirements that a water system is required to complete.

"AF" means acre foot and is the volume of water required to cover an acre to a depth of one foot (one AF is equivalent to 325,851 gallons).

"Air gap" The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, catch basin, plumbing fixture or other device and the flood level rim of the receptacle. This distance shall be two times the diameter of the effective opening for openings greater than one inch in diameter where walls or obstructions are spaced from the nearest inside edge of the pipe opening a distance greater than three times the diameter of the effective openings for a single wall, or a distance greater than four times the diameter of the effective opening for two intersecting walls. This distance shall be three times the diameter of the effective opening where walls or obstructions are closer than the distances indicated above.

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61. The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

"Approval" unless indicated otherwise, shall be taken to mean a written statement of acceptance from the Executive Secretary.

"Approved" refers to a rating placed on a system by the Division and means that the public water system is operating in substantial compliance with all the Rules of R309.

"Average Yearly Demand" means the amount of water delivered to consumers by a public water system during a typical year, generally expressed in MG or AF.

"AWWA" refers to the American Water Works Association located at 6666 West Quincy Avenue, Denver, Colorado 80235. Reference within these rules is generally to a particular Standard prepared

by AWWA and which has completed the ANSI approval process such as ANSI/AWWA Standard C651-92 (AWWA Standard for Disinfecting Water Mains).

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source. Also see backsiphonage, backpressure and cross-connection.

"Backpressure" means the phenomena that occurs when the customer's pressure is higher than the supply pressure, This could be caused by an unprotected cross connection between a drinking water supply and a pressurized irrigation system, a boiler, a pressurized industrial process, elevation differences, air or steam pressure, use of booster pumps or any other source of pressure. Also see backflow, backsiphonage and cross connection.

"Backsiphonage" means a form of backflow due to a reduction in system pressure which causes a subatmospheric or negative pressure to exist at a site or point in the water system. Also see backflow and cross-connection.

"Bag Filters" are pressure-driven separation devices that remove particle matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank Filtration" is a water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

"Best Available Technology" (BAT) means the best technology, treatment techniques, or other means which the Executive Secretary finds, after examination under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon for all these chemicals except vinyl chloride. Central treatment using packed tower aeration is also identified as BAT for synthetic organic chemicals.

"Board" means the Drinking Water Board.

"Body Politic" means the State or its agencies or any political subdivision of the State to include a county, city, town, improvement district, taxing district or any other governmental subdivision or public corporation for the State.

"Breakpoint Chlorination" means addition of chlorine to water until the chlorine demand has been satisfied. At this point, further addition of chlorine will result in a free residual chlorine that is directly proportional to the amount of chlorine added beyond the breakpoint.

"C" is short for "Residual Disinfectant Concentration."

"Capacity Development" means technical, managerial, and financial capabilities of the water system to plan for, achieve,

and maintain compliance with applicable drinking water standards.

"Cartridge filters" are pressure-driven separation devices that remove particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"cfs" means cubic feet per second and is one way of expressing flowrate (one cfs is equivalent to 448.8 gpm).

"Class" means the level of certification of Backflow Prevention Technician (Class I, II or III).

"Coagulation" is the process of destabilization of the charge (predominantly negative) on particulates and colloids suspended in water. Destabilization lessens the repelling character of particulates and colloids and allows them to become attached to other particles so that they may be removed in subsequent processes. The particulates in raw waters (which contribute to color and turbidity) are mainly clays, silt, viruses, bacteria, fulvic and humic acids, minerals (including asbestos, silicates, silica, and radioactive particles), and organic particulate.

"Collection area" means the area surrounding a ground-water source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other ground-water collection devices.

"Combined distribution system" is the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

"Commission" means the Operator Certification Commission.

"Community Water System" (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period ran from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third is from January 1, 1999 to December 31, 2001.

"Comprehensive Performance Evaluation" (CPE) is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with these rules, the comprehensive performance evaluation must consist of at least the following components:

Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Confirmed SOC contamination area" means an area surrounding and including a plume of SOC contamination of the soil or water which previous monitoring results have confirmed. The area boundaries may be determined by measuring 3,000 feet horizontally from the outermost edges of the confirmed plume. The area includes deeper aquifers even though only the shallow aquifer is the one contaminated.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion of the filtration area in which discrete bacterial colonies can not be distinguished.

"Consecutive system" is a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system or one or more consecutive systems.

"Contaminant" means any physical, chemical biological, or radiological substance or matter in water.

"Continuing Education Unit" (CEU) means ten contact hours of participation in, and successful completion of, an organized and approved continuing education experience under responsible sponsorship, capable direction, and qualified instruction. College credit in approved courses may be substituted for CEUs on an equivalency basis.

"Conventional Surface Water Treatment" means a series of processes including coagulation, flocculation, sedimentation, filtration and disinfection resulting in substantial particulate removal and inactivation of pathogens.

"Controls" means any codes, ordinances, rules, and regulations that a public water system can cite as currently in effect to regulate potential contamination sources; any physical conditions which may prevent contaminants from migrating off of a site and into surface or ground water; and any site with negligible quantities of contaminants.

"Corrective Action" refers to a rating placed on a system by the Division and means a provisional rating for a public water system not in compliance with the Rules of R309, but making all the necessary changes outlined by the Executive Secretary to bring them into compliance.

"Corrosion inhibitor" means a substance capable of reducing the corrosiveness of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Criteria" means the conceptual standards that form the basis

for DWSP area delineation to include distance, ground-water time of travel, aquifer boundaries, and ground-water divides.

"Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will cease to provide the desired degree of protection.

"Cross-Connection" means any actual or potential connection between a drinking (potable) water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. For example, if you have a pump moving non-potable water and hook into the drinking water system to supply water for the pump seal, a cross-connection or mixing may lead to contamination of the drinking water. Also see backsiphonage, backpressure and backflow.

"Cross Connection Control Program" means the program administered by the public water system in which cross connections are either eliminated or controlled.

"Cross Connection Control Commission" means the duly constituted advisory subcommittee appointed by the Board to advise the Board on Backflow Technician Certification and the Cross Connection Control Program of Utah.

"CT" or " CT_{calc} " is the product of "residual disinfectant concentration" (C) in mg/l determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T." If a public water system applies disinfectant at more than one point prior to the first customer, the summation of each CT value for each disinfectant sequence before or at the first customer determines the total percent inactivation or "Total Inactivation Ratio." In determining the Total Inactivation Ratio, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before any subsequent disinfection application point(s).

" $CT_{req'd}$ " is the CT value required when the log reduction credit given the filter is subtracted from the (3-log) inactivation requirement for Giardia lamblia or the (4-log) inactivation requirement for viruses.

" $CT_{99.9}$ " is the CT value required for 99.9 percent (3-log) inactivation of Giardia lamblia cysts. $CT_{99.9}$ for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division).

"Designated person" means the person appointed by a public water system to ensure that the requirements of their Drinking Water Source Protection Plan(s) for ground water sources and/or surface water sources are met.

"Desired Design Discharge Rate" means the discharge rate selected for the permanent pump installed in a public drinking water well source. This pumping rate is selected by the water system owner or engineer and can match or be the same rate utilized during the constant rate pump test required by R309-515 and R309-600 to determine delineated protection zones. For

consideration of the number of permanent residential connections or ERC's that a well source can support (see Safe Yield) the Division will consider 2/3 of the test pumping rate as the safe yield.

"Direct Employment" means that the operator is directly compensated by the drinking water system to operate that drinking water system.

"Direct Filtration" means a series of processes including coagulation and filtration, but excluding sedimentation, resulting in substantial particulate removal.

"Direct Responsible Charge" means active on-site control and management of routine maintenance and operation duties. A person in direct responsible charge is generally an operator of a water treatment plant or distribution system who independently makes decisions during normal operation which can affect the sanitary quality, safety, and adequacy of water delivered to customers. In cases where only one operator is employed by the system, this operator shall be considered to be in direct responsible charge.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemptions returns.

"Discipline" means type of certification (Distribution or Treatment).

"Disinfectant Contact Time" ("T" in CT calculations) means the time in minutes that it takes water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration ("C") is measured. Where only one "C" is measured, "T" is the time in minutes that it takes water to move from the point of disinfectant application to a point before or at where residual disinfectant concentration ("C") is measured. Where more than one "C" is measured, "T" is (a) for the first measurement of "C," the time in minutes that it takes water to move from the first or only point of disinfectant application to a point before or at the point where the first "C" is measured and (b) for subsequent measurements of "C," the time in minutes that it takes for water to move from the previous "C" measurement point to the "C" measurement point for which the particular "T" is being calculated. Disinfectant contact time in pipelines must be calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. Disinfectant contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents (see also Primary Disinfection and Secondary Disinfection).

"Disinfection profile" is a summary of daily *Giardia lamblia* inactivation through the treatment plant.

"Distribution System" means the use of any spring or well source, distribution pipelines, appurtenances, and facilities which carry water for potable use to consumers through a public water supply. Systems which chlorinate groundwater are in this discipline.

"Distribution System Manager" means the individual responsible for all operations of a distribution system.

"Division" means the Utah Division of Drinking Water, who acts as staff to the Board and is also part of the Utah Department of Environmental Quality.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission of Radiological Units and Measurements (ICRU).

"Drinking Water" means water that is fit for human consumption and meets the quality standards of R309-200. Common usage of terms such as culinary water, potable water or finished water are synonymous with drinking water.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses which has at least fifteen service connections or serves an average of twenty-five individuals daily for at least sixty days of the year and includes collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system and collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project.

"Drinking Water Regional Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system will either collectively or individually comply with source protection, operator certification, monitoring (including consumer confidence reports), capacity development (including technical, financial and managerial aspects), environmental issues, available funding and related studies.

"Dual sample set" is a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under R309-210-9 and determining compliance with the TTHM and HAA5 MCLs under R309-210-10.

"DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

"DWSP Zone" means the surface and subsurface area surrounding a ground-water or surface water source of drinking water supplying

a PWS, over which or through which contaminants are reasonably likely to move toward and reach such water source.

"Emergency Storage" means that storage tank volume which provides water during emergency situations, such as pipeline failures, major trunk main failures, equipment failures, electrical power outages, water treatment facility failures, source water supply contamination, or natural disasters.

"Engineer" means a person licensed under the Professional Engineers and Land Surveyors Licensing Act, 58-22 of the Utah Code, as a "professional engineer" as defined therein.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Equalization Storage" means that storage tank volume which stores water during periods of low demand and releases the water under periods of high demand. Equalization storage provides a buffer between the sources and distribution for the varying daily water demands. Typically, water demands are high in the early morning or evening and relatively low in the middle of the night. A rule-of-thumb for equalization storage volume is that it should be equal to one average day's use.

"Equivalent Residential Connection" (ERC) is a term used to evaluate service connections to consumers other than the typical residential domicile. Public water system management is expected to review annual metered drinking water volumes delivered to non-residential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single family residential connections. This information is utilized in evaluation of the system's source and storage capacities (refer to R309-510).

"Executive Secretary" means the Executive Secretary of the Board as appointed and with authority outlined in 19-4-106 of the Utah Code.

"Existing ground-water source of drinking water" means a public supply ground-water source for which plans and specifications were submitted to the Division on or before July 26, 1993.

"Existing surface water source of drinking water" means a public supply surface water source for which plans and specifications were submitted to the Division on or before June 12, 2000.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Filter profile" is a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Financial Assistance" means a drinking water project loan,

credit enhancement agreement, interest buy-down agreement or hardship grant.

"Finished water" is water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

"Fire Suppression Storage" means that storage tank volume allocated to fire suppression activities. It is generally determined by the requirements of the local fire marshal, expressed in gallons, and determined by the product of a minimum flowrate in gpm and required time expressed in minutes.

"First draw sample" means a one-liter sample of tap water, collected in accordance with an approved lead and copper sampling site plan, that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"Flash Mix" is the physical process of blending or dispersing a chemical additive into an unblended stream. Flash Mixing is used where an additive needs to be dispersed rapidly (within a period of one to ten seconds). Common usage of terms such as "rapid mix" or "initial mix" are synonymous with flash mix.

"Floc" means flocculated particles or agglomerated particles formed during the flocculation process. Flocculation enhances the agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculated particles may be small (less than 0.1 mm diameter) micro flocs or large, visible flocs (0.1 to 3.0 mm diameter).

"Flocculation" means a process to enhance agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculation begins immediately after destabilization in the zone of decaying mixing energy (downstream from the mixer) or as a result of the turbulence of transporting flow. Such incidental flocculation may be an adequate flocculation process in some instances. Normally flocculation involves an intentional and defined process of gentle stirring to enhance contact of destabilized particles and to build floc particles of optimum size, density, and strength to be subsequently removed by settling or filtration.

"Flowing stream" is a course of running water flowing in a definite channel.

"fps" means feet per second and is one way of expressing the velocity of water.

"G" is used to express the energy required for mixing and for flocculation. It is a term which is used to compare velocity gradients or the relative number of contacts per unit volume per second made by suspended particles during the flocculation process. Velocity gradients G may be calculated from the following equation: $G = \text{square root of the value}(550 \text{ times } P \text{ divided by } u \text{ times } V)$. Where: P = applied horsepower, u = viscosity, and V = effective volume.

"GAC10" means granular activated carbon filter beds with an

empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with R309-210-10 MCLs under R309-200-5(3)(i)(A) shall be 120 days.

"GAC20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

"Geologist" means a person licensed under the Professional Geologist Licensing Act, 58-76 of the Utah Code, as a "professional geologist" as defined therein.

"Geometric Mean" the geometric mean of a set of N numbers $X_1, X_2, X_3, \dots, X_N$ is the Nth root of the product of the numbers.

"gpd" means gallons per day and is one way of expressing average daily water demands experienced by public water systems.

"gpm" means gallons per minute and is one way of expressing flowrate.

"gpm/sf" means gallons per minute per square foot and is one way of expressing flowrate through a surface area.

"Grade" means any one of four possible steps within a certification discipline of either water distribution or water treatment. Grade I indicates knowledge and experience requirements for the smallest type of public water supply. Grade IV indicates knowledge and experience levels appropriate for the largest, most complex type of public water supply.

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"ground water of high quality" means a well or spring producing water deemed by the Executive Secretary to be of sufficiently high quality that no treatment is required. Such sources shall have been designed and constructed in conformance with these rules, have been tested to establish that all applicable drinking water quality standards (as given in rule R309-200) are reliably and consistently met, have been deemed not vulnerable to natural or man-caused contamination, and the public water system management have established adequate protection zones and management policies in accordance with rule R309-600.

"ground water of low quality" means a well or spring which, as determined by the Executive Secretary, cannot reliably and consistently meet the drinking water quality standards described in R309-200. Such sources shall be deemed to be a low quality ground water source if any of the conditions outlined in subsection R309-505-8(1) exist. Ground water that is classified "UDI" is a subset of this definition and requires "conventional surface water treatment" or an acceptable alternative.

"Ground Water Source" means any well, spring, tunnel, adit, or other underground opening from or through which ground water flows or is pumped from subsurface water-bearing formations.

"Ground Water Under the Direct Influence of Surface Water" or "UDI" or "GWUDI" means any water beneath the surface of the ground with significant occurrence of insects or other macro organisms, algae, or large-diameter pathogens such as Giardia lamblia, or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence will be determined for individual sources in accordance with criteria established by the Executive Secretary. The determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well or spring construction and geology with field evaluation.

"Haloacetic acids"(five) (HAA5) mean the sum of the concentrations in mg/L of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Hardship Grant" means a grant of monies to a political subdivision that meets the drinking water project loan considerations whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

(1) a Planning Advance which will be required to be repaid at a later date, to help meet project costs incident to planning to determine the economic, engineering and financial feasibility of a proposed project;

(2) a Design Advance which will be required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies; or

(3) a Project Grant which will not be required to be repaid.

"Hardship Grant Assessment" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Hotel, Motel or Resort" shall include tourist courts, motor hotels, resort camps, hostels, lodges, dormitories and similar facilities, and shall mean every building, or structure with all buildings and facilities in connection, kept, used, maintained as, advertised as, or held out to the public to be, a place where living accommodations are furnished to transient guests or to groups normally occupying such facilities on a seasonal or short term basis.

"Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. These methods include, but are not limited to, arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

"Initial compliance period" means the first full three-year compliance period which begins at least 18 months after promulgation, except for contaminants listed in R309-200-5(3)(a),

Table 200-2 numbers 19 to 33; R309-200-5(3)(b), Table 200-3 numbers 19 to 21; and R309-200-5(1)(c), Table 200-1 numbers 1, 5, 8, 11 and 18, initial compliance period means the first full three-year compliance after promulgation for systems with 150 or more service connections (January 1993-December 1995), and first full three-year compliance period after the effective date of the regulation (January 1996-December 1998) for systems having fewer than 150 service connections.

"Intake", for the purposes of surface water drinking water source protection, means the device used to divert surface water and also the conveyance to the point immediately preceding treatment, or, if no treatment is provided, at the entry point to the distribution system.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the subdivision for drinking water project costs.

"Labor Camp" shall mean one or more buildings, structures, or grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, industrial, mining or demolition workers.

"Lake / reservoir" refers to a natural or man made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Land management strategies" means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

"Land use agreement" means a written agreement, memoranda or contract wherein the owner(s) agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers or zone one of surface water sources. The owner(s) must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to ground water. This restriction must be binding on all heirs, successors, and assigns. Land use agreements must be recorded with the property description in the local county recorder's office. Refer to R309-600-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office. However, a letter must be obtained from the Administrator of the land in question and meet the requirements described above.

"Large water system" for the purposes of R309-210-6 only, means a water system that serves more than 50,000 persons.

"Lead free" means, for the purposes of R309-210-6, when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead; when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead; and when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion refers to fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300 g-6(e).

"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Locational running annual average (LRAA)" is the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

"Major Bacteriological Routine Monitoring Violation" means that no routine bacteriological sample was taken as required by R309-210-5(1).

"Major Bacteriological Repeat Monitoring Violation" - means that no repeat bacteriological sample was taken as required by R309-210-5(2).

"Major Chemical Monitoring Violation" - means that no initial background chemical sample was taken as required in R309-515-4(5).

"Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be excluded from the DWSP management area at locations where it is separated from the ground water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, "NBS Handbook 69," except the daughter products of thorium-232, uranium-235 and uranium-238.

"Master Plan" (or "System Capacity and Expansion Report") means a organized plan addressing the present and future demands that will be placed on a public drinking water system by expanding into undeveloped areas or accepting additional service contracts.

As a minimum a satisfactory master plan must contain the following elements:

(a) A listing of sources including: the source name, the source type (i.e., well, spring, reservoir, stream etc.) for both existing sources and additional sources identified as needed for system expansion, the minimum reliable flow of the source in gallons per minute, the status of the water right and the flow capacity of the water right.

(b) A listing of storage facilities including: the storage tank name, the type of material (i.e., steel, concrete etc.), the diameter, the total volume in gallons, and the elevation of the overflow, the lowest level (elevation) of the equalization volume, the fire suppression volume, and the emergency volume or the outlet.

(c) A listing of pump stations including: the pump station name and the pumping capacity in gallons per minute. Under this requirement one does not need to list well pump stations as they are provided in requirement (a) above.

(d) A listing of the various pipeline sizes within the distribution system with their associated pipe materials and, if readily available, the approximate length of pipe in each size and material category. A schematic of the distribution piping showing node points, elevations, length and size of lines, pressure zones, demands, and coefficients used for the hydraulic analysis required by (h) below will suffice.

(e) A listing by customer type (i.e., single family residence, 40 unit condominium complex, elementary school, junior high school, high school, hospital, post office, industry, commercial etc.) along with an assessment of their associated number of ERC'S.

(f) The number of connections along with their associated ERC value that the public drinking water system is committed to serve, but has not yet physically connected to the infrastructure.

(g) A description of the nature and extent of the area currently served by the water system and a plan of action to control addition of new service connections or expansion of the public drinking water system to serve new development(s). The plan shall include current number of service connections and water usage as well as land use projections and forecasts of future water usage.

(h) A hydraulic analysis of the existing distribution system along with any proposed distribution system expansion identified in (g) above.

(i) A description of potential alternatives to manage system growth, including interconnections with other existing public drinking water systems, developer responsibilities and requirements, water rights issues, source and storage capacity issues and distribution issues.

"Maximum Contaminant Level" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"Maximum residual disinfectant level" (MRDL) means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a PWS is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a PWS is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as MCLs pursuant to UT Code S 19-4-104. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in R309-200-5(3), operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal" (MRDLG) means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are non-enforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Medium-size water system" for the purposes of R309-210-6 only, means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"Membrane filtration" is a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes that common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

"Metropolitan area sources" means all sources within a metropolitan area. A metropolitan area is further defined to contain at least 3,300 year round residents. A small water system which has sources within a metropolitan system's service area, may have those sources classified as a metropolitan area source.

"MG" means million gallons and is one way of expressing a volume of water.

"MGD" means million gallons per day and is one way of expressing average daily water demands experienced by public water systems or the capacity of a water treatment plant.

"mg/L" means milligrams per liter and is one way of expressing the concentration of a chemical in water. At small concentrations, mg/L is synonymous with "ppm" (parts per million).

"Minor Bacteriological Routine Monitoring Violation" means

that not all of the routine bacteriological samples were taken as required by R309-210-5(1).

"Minor Bacteriological Repeat Monitoring Violation" means that not all of the repeat bacteriological samples were taken as required by R309-210-5(2).

"Minor Chemical Monitoring Violation" means that the required chemical sample(s) was not taken in accordance with R309-205 and R309-210.

"Modern Recreation Camp" means a campground accessible by any type of vehicular traffic. The camp is used wholly or in part for recreation, training or instruction, social, religious, or physical education activities or whose primary purpose is to provide an outdoor group living experience. The site is equipped with permanent buildings for the purpose of sleeping, a drinking water supply under pressure, food service facilities, and may be operated on a seasonal or short term basis. These types of camps shall include but are not limited to privately owned campgrounds such as youth camps, church camps, boy or girl scout camps, mixed age groups, family group camps, etc.

"Near the first service connection" means one of the service connections within the first 20 percent of all service connections that are nearest to the treatment facilities.

"Negative Interest" means a loan having loan terms with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Board.

"New ground water source of drinking water" means a public supply ground water source of drinking water for which plans and specifications are submitted to the Division after July 26, 1993.

"New surface water source of drinking water" means a public supply surface water source of drinking water for which plans and specifications are submitted to the Division after June 12, 2000.

"New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.

"Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.

"Non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which a coliform-positive sample was taken.

"Nonpoint source" means any diffuse source of contaminants or pollutants not otherwise defined as a point source.

"Non-Transient Non-Community Water System" (NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

"Not Approved" refers to a rating placed on a system by the Division and means the water system does not fully comply with all

the Rules of R309 as measured by R309-400.

"NTU" means Nephelometric Turbidity Units and is an acceptable method for measuring the clarity of water utilizing an electronic nephelometer (see "Standard Methods for Examination of Water and Wastewater").

"Operator" means a person who operates, repairs, maintains, and is directly employed by a public drinking water system.

"Operator Certification Commission" means the Commission appointed by the Board as an advisory Commission on public water system operator certification.

"Operating Permit" means written authorization from the Executive Secretary to actually start utilizing a facility constructed as part of a public water system.

"Optimal corrosion control treatment" for the purposes of R309-210-6 only, means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

"Package Plants" refers to water treatment plants manufactured and supplied generally by one company which are reportedly complete and ready to hook to a raw water supply line. Caution, some plants do not completely comply with all requirements of these rules and will generally require additional equipment.

"PCBs" means a group of chemicals that contain polychlorinated biphenyl.

"Peak Day Demand" means the amount of water delivered to consumers by a public water system on the day of highest consumption, generally expressed in gpd or MGD. This peak day will likely occur during a particularly hot spell in the summer. In contrast, some systems associated with the skiing industry may experience their "Peak Day Demand" in the winter.

"Peak Hourly Flow" means the maximum hourly flow rate from a water treatment plant and utilized when the plant is preparing disinfection profiling as called for in R309-215-14(2).

"Peak Instantaneous Demand" means calculated or estimated highest flowrate that can be expected through any water mains of the distribution network of a public water system at any instant in time, generally expressed in gpm or cfs (refer to section R309-510-9).

"Person" means an individual, corporation, company, association, partnership; municipality; or State, Federal, or tribal agency.

"Picocurie" (pCi) means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plan Approval" means written approval, by the Executive Secretary, of contract plans and specifications for any public drinking water project which have been submitted for review prior to the start of construction (see also R309-500-7).

"Plant intake" refers to the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

"Plug Flow" is a term to describe when water flowing through a tank, basin or reactors moves as a plug of water without ever dispersing or mixing with the rest of the water flowing through the tank.

"Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to re-contamination by surface water runoff.

"Point of Diversion"(POD) is the point at which water from a surface source enters a piped conveyance, storage tank, or is otherwise removed from open exposure prior to treatment.

"Point-of-Entry Treatment Device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-Use Treatment Device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Point source" means any discernible, confined, and discrete source of pollutants or contaminants, including but not limited to any site, pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged.

"Political Subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws of Utah.

"Pollution source" means point source discharges of contaminants to ground or surface water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of R309-600 and clarify the meaning of "pollution source:"

(1) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each

other, if they use a common area, or if they use a common system for the disposal of wastes.

(2) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 550-B-96-015). A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at <http://www.epa.gov/ncepihom/orderpub.html>.

"Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground or surface water. A pollution source is also a potential contamination source.

"ppm" means parts per million and is one way of expressing the concentration of a chemical in water. At small concentrations generally used, ppm is synonymous with "mg/l" (milligrams per liter).

"Practical Quantitation Level" (PQL) means the required analysis standard for laboratory certification to perform lead and copper analyses. The PQL for lead is .005 milligrams per liter and the PQL for copper is 0.050 milligrams per liter.

"Presedimentation" is a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Primary Disinfection" means the adding of an acceptable primary disinfectant during the treatment process to provide adequate levels of inactivation of bacteria and pathogens. The effectiveness is measured through "CT" values and the "Total Inactivation Ratio." Acceptable primary disinfectants are, chlorine, ozone, and chlorine dioxide (see also "CT" and "CT_{99.9}").

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by R309-705-8, and by the Board.

"Project Costs" include the cost of acquiring and constructing any drinking water project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of

designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Protected aquifer" means a producing aquifer in which the following conditions are met:

(1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(2) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and

(3) the public supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

"Public Drinking Water Project" means construction, addition to, or modification of any facility of a public water system which may affect the quality or quantity of the drinking water (see also section R309-500-6).

"Public Water System" (PWS) means a system, either publicly or privately owned, providing water through constructed conveyances for human consumption and other domestic uses, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year and includes collection, treatment, storage, or distribution facilities under the control of the operator and used primarily in connection with the system, or collection, pretreatment or storage facilities used primarily in connection with the system but not under his control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community (CWS), non-transient non-community (NTNCWS), and transient non-community (TNCWS). These categories are important with respect to required monitoring and water quality testing found in R309-205 and R309-210 (see also definition of "water system").

"Raw Water" means water that is destined for some treatment process that will make it acceptable as drinking water. Common usage of terms such as lake or stream water, surface water or irrigation water are synonymous with raw water.

"Recreational Home Developments" are subdivision type developments wherein the dwellings are not intended as permanent domiciles.

"Recreational Vehicle Park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for individuals utilizing recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional member and their guests only.

"Regional Operator" means a certified operator who is in direct responsible charge of more than one public drinking water system.

"Regionalized Water System" means any combination of water systems which are physically connected or operated or managed as a single unit.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Renewal Course" means a course of instruction, approved by the Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Replacement well" means a public supply well drilled for the sole purpose of replacing an existing public supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

(1) the proposed well location shall be within a radius of 150 feet from an existing ground water supply well; and

(2) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code).

"Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

"Residual Disinfectant Concentration" ("C" in CT calculations) means the concentration of disinfectant, measured in mg/L, in a representative sample of water.

"Restricted Certificate" means that the operator has qualified by passing an examination but is in a restricted certification status due to lack of experience as an operator.

"Roadway Rest Stop" shall mean any building, or buildings, or grounds, parking areas, including the necessary toilet, hand washing, water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. It does not include scenic view or roadside picnic areas or other parking areas if these are properly identified

"Routine Chemical Monitoring Violation" means no routine chemical sample(s) was taken as required in R309-205, R309-210 and R309-215.

"Safe Yield" means the annual quantity of water that can be taken from a source of supply over a period of years without depleting the source beyond its ability to be replenished naturally in "wet years".

"Sanitary Seal" means a cap that prevents contaminants from entering a well through the top of the casing.

"scfm/sf" means standard cubic foot per minute per square foot and is one way of expressing flowrate of air at standard density through a filter or duct area.

"Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is

maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

"Secondary Maximum Contaminant Level" means the advisable maximum level of contaminant in water which is delivered to any user of a public water system.

"Secretary to the Subcommittee" means that individual appointed by the Executive Secretary to conduct the business of the Subcommittee.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Semi-Developed Camp" means a campground accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined and basic facilities (water, flush toilets and/or vault toilets, tables, fireplaces or tent pads) are provided. These camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, and youth camps.

"Service Connection" means the constructed conveyance by which a dwelling, commercial or industrial establishment, or other water user obtains water from the supplier's distribution system. Multiple dwelling units such as condominiums or apartments, shall be considered to have a single service connection, if fed by a single line, for the purpose of microbiological repeat sampling; but shall be evaluated by the supplier as multiple "equivalent residential connections" for the purpose of source and storage capacities.

"Service Factor" means a rating on a motor to indicate an increased horsepower capacity beyond nominal nameplate capacity for occasional overload conditions.

"Service line sample" means a one-liter sample of water collected in accordance with R309-210-6(3)(b)(iii), that has been standing for at least 6 hours in a service line.

"Single family structure" for the purposes of R309-210-6 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Small water system" means a public water system that serves 3,300 persons or fewer.

"Specialist" means a person who has successfully passed the written certification exam and meets the required experience, but who is not in direct employment with a Utah public drinking water system.

"Stabilized drawdown" means that there is less than 0.5 foot of change in water level measurements in a pumped well for a minimum period of six hours.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"SOCs" means synthetic organic chemicals.

"Stabilized Drawdown" means the drawdown measurements taken

during a constant-rate yield and drawdown test as outlined in subsection R309-515-14(10)(b) are constant (no change).

"Stock Tight" means a type of fence that can prevent the passage of grazing livestock through its boundary. An example of such fencing is provided by design drawing 02838-3 titled "Cattle Exclosure" designed by the U.S. Department of the Interior, Bureau of Land Management, Division of Technical Services (copies available from the Division).

"Subcommittee" means the Cross Connection Control Subcommittee.

"Supplier of water" means any person who owns or operates a public water system.

"Surface Water" means all water which is open to the atmosphere and subject to surface runoff (see also section R309-515-5(1)). This includes conveyances such as ditches, canals and aqueducts, as well as natural features.

"Surface Water Systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection (Federal SWTR subpart H) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Large)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population of 10,000 or greater (Federal SWTR subpart P and L) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Small)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population less than 10,000 (Federal SWTR subpart L, T and P (sanitary survey requirements)) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Susceptibility" means the potential for a PWS (as determined at the point immediately preceding treatment, or if no treatment is provided, at the entry point to the distribution system) to draw water contaminated above a demonstrated background water quality concentration through any overland or subsurface pathway. Such pathways may include cracks or fissures in or open areas of the surface water intake, and/or the wellhead, and/or the pipe/conveyance between the intake and the water distribution system or treatment.

"SUVA" means Specific Ultraviolet Absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

"T" is short for "Contact Time" and is generally used in conjunction with either the residual disinfectant concentration (C) in determining CT or the velocity gradient (G) in determining mixing energy GT.

"Ten State Standards" refers to the Recommended Standards For Water Works, 1997 by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, (518)439-7286.

"Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground water source of drinking water. It also means the time required for a particle of water to travel from a specific point along a surface water body to an intake.

"Total Inactivation Ratio" is the sum of all the inactivation ratios calculated for a series of disinfection sequences, and is indicated or shown as: "Summation sign $(CT_{calc})/(CT_{req'd})$." A total inactivation ratio equal to or greater than 1.0 is assumed to provide the required inactivation of Giardia lamblia cysts. $CT_{calc}/CT_{99.9}$ equal to 1.0 provides 99.9 percent (3-log) inactivation, whereas CT_{calc}/CT_{90} equal to 1.0 only provides 90 percent (1-log) inactivation.

"Too numerous to count" (TNTC) means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform detection.

"Total Organic Carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total Trihalomethanes" (TTHM) means the MCL for trihalomethanes. This is the sum of four of ten possible isomers of chlorine/bromine/methane compounds, all known as trihalomethanes (THM). TTHM is defined as the arithmetic sum of the concentrations in micro grams per liter of only four of these (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) rounded to two significant figures. This measurement is made by samples which are "quenched," meaning that a chlorine neutralizing agent has been added, preventing further THM formation in the samples.

"Training Coordinating Committee" means the voluntary association of individuals responsible for environmental training in the state of Utah.

"Transient Non-Community Water System" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

"Treatment Plant" means those facilities capable of providing any treatment to any waterserving a public drinking water system. (Examples would include but not be limited to disinfection,

conventional surface water treatment, alternative surface water treatment methods, corrosion control methods, aeration, softening, etc.).

"Treatment Plant Manager" means the individual responsible for all operations of a treatment plant.

"Trihalomethanes" (THM) means any one or all members of this class of organic compounds.

"Trihalomethane Formation Potential" (THMFP) - these samples are collected just following disinfection and measure the highest possible TTHM value to be expected in the water distribution system. The formation potential is measured by not neutralizing the disinfecting agent at the time of collection, but storing the sample seven days at 25 degrees C prior to analysis. A chlorine residual must be present in these samples at the end of the seven day period prior to analysis for the samples to be considered valid for this test. Samples without a residual at the end of this period must be resampled if this test is desired.

"Turbidity Unit" refers to NTU or Nephelometric Turbidity Unit.

"Two-stage lime softening" is a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"UDI" means under direct influence (see also "Ground Water Under the Direct Influence of Surface Water").

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

"Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

"Unregulated Contaminant" means a known or suspected disease causing contaminant for which no maximum contaminant level has been established.

"Unrestricted Certificate" means that a certificate of competency issued by the Executive Secretary when the operator has passed the appropriate level written examination and has met all certification requirements at the discipline and grade stated on the certificate.

"Virus" means a virus of fecal origin which is infectious to humans.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, as determined by the appropriate local or State agency.

"Watershed" means the topographic boundary that is the perimeter of the catchment basin that contributes water through a surface source to the intake structure. For the purposes of surface water DWSP, if the topographic boundary intersects the state boundary, the state boundary becomes the boundary of the watershed.

"Water Supplier" means a person who owns or operates a public drinking water system.

"Water System" means all lands, property, rights, rights-of-way, easements and related facilities owned by a single entity, which are deemed necessary or convenient to deliver drinking water from source to the service connection of a consumer(s). This includes all water rights acquired in connection with the system, all means of conserving, controlling and distributing drinking water, including, but not limited to, diversion or collection works, springs, wells, treatment plants, pumps, lift stations, service meters, mains, hydrants, reservoirs, tanks and associated appurtenances within the property or easement boundaries under the control of or controlled by the entity owning the system.

In accordance with R309, certain water systems may be exempted from monitoring requirements, but such exemption does not extend to submittal of plans and specifications for any modifications considered a public drinking water project.

"Wellhead" means the physical structure, facility, or device at the land surface from or through which ground water flows or is pumped from subsurface, water-bearing formations.

"Wholesale system" is a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"Zone of Influence" corresponds to area of the upper portion of the cone of depression as described in "Groundwater and Wells," second edition, by Fletcher G. Driscoll, Ph.D., and published by Johnson Division, St. Paul, Minnesota.

KEY: drinking water, definitions

Date of Enactment or Last Substantive Amendment: May 14, 2007

Notice of Continuation: May 16, 2005

Authorizing, and Implemented or Interpreted Law: 19-4-104; 63-46b-4

8. c. R309-500(2) and 500-6(3)(a) & (b)

ON-GOING O&B AND WAIVING OF PLAN
SUBMITTAL

PROPOSED SUBSTANTIVE CHANGES FOR RULE R309-500

Recently staff presented to the Board proposed amendments to R309-500. In January the Board tabled the request and asked staff to revise certain portions of the rule dealing with items listed as “on-going operation and maintenance” not subject to project notification, plan approval, and operating permit requirements. We revised this portion of rule we believe in accordance with the wishes and desires of the Board. Staff present this revised proposed amendment to R309-500-5(2) for their consideration.

Staff is still concerned that when public water systems who identify a professional engineer responsible for the entire system and request plan review waiver in accordance with R309-500-6(3)(b) may not have satisfactory drinking water installation standards or standards that are not compliant with today’s rules. More and more systems are taking advantage of this part of the rules and we are concerned that if plan review waivers are granted water lines may be installed improperly.

For this reason staff still proposes the following amendment to R309-500-6(3)(b) which will add the condition of previous review and approval of drinking water pipeline installation standards as an additional requirement, along with the identification of a professional engineer directly responsible for the entire drinking water system, before being eligible for plan review waivers.

Staff Recommendation: Staff, believing that the above mentioned changes are substantive, ask Board members review the proposed changes and, if they agree, authorize staff to start the rulemaking process and file the proposed rule amendments for publication in the Utah Bulletin of April 1, 2009.

R309. Environmental Quality, Drinking Water.

R309-500. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements.

R309-500-1. Purpose.

The purpose of this rule is to describe plan review procedures and requirements, clarify projects requiring review, and inspection requirements for drinking water projects. It is intended to be applied in conjunction with rules R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-500-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

R309-500-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-500-4. General.

(1) Construction and Operation of New Facilities.

As authorized in 19-4-106(3) of the Utah Code, the Executive Secretary may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to insure proper design and construction.

Plans and specifications and a business plan as required by R309-800-5, along with a completed project notification form, shall be submitted to the Executive Secretary for any new water systems or previously un-reviewed water systems unless acceptable data can be presented that the proposed or existing water system will not become a "public water system" as defined in 19-4-102 of the Utah Code or in R309-110.

Construction of new facilities for public water systems or existing facilities of previously un-reviewed public drinking water systems shall conform to rules R309-500 through R309-550; the "Facility Design and Operation" rules. There may be times in which the requirements of the Facility Design and Operation rules are not appropriate. Thus, the Executive Secretary may grant an "exception" to the Facility Design and Operation rules if it can be shown that the granting of such an exception will not jeopardize the public health.

Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Executive Secretary unless waivers have been issued as allowed by R309-500-6(3). This approval shall be referred to as the Plan Approval.

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Furthermore, no new public drinking water facility shall be put into operation until written approval to do so has been given by the Executive Secretary or this requirement waived. This approval is referred to as the Operating Permit.

(2) Existing Facilities.

All existing public drinking water systems shall be capable of reliably delivering water which meets the minimum current standard of drinking water quantity and quality requirements. The Executive Secretary may require modification of existing systems in accordance with R309-500 through R309-550 when such modifications are needed to reliably achieve minimum quantity and quality requirements.

(3) Operation and Maintenance of Existing Facilities.

Public drinking water system facilities shall be operated and maintained in a manner which protects the public health. As a minimum, the operation and maintenance procedures of R309-500 through R309-550 shall be adhered to.

R309-500-5. Public Drinking Water Project.

(1) Definition.

A public drinking water project, requiring the submittal of a project notification form along with plans and specifications, is any of the following:

(a) The construction of any facility for a proposed drinking water system (see 19-4-106(3) of the Utah Code or R309-500-4(1) above describing the authority of the Executive Secretary).

(b) Any addition to, or modification of, the facilities of an existing public drinking water system which may affect the quality or quantity of water delivered.

(c) Any activity, other than on-going operation and maintenance procedures, which may affect the quality or quantity of water delivered by an existing public drinking water system. Such activities include:

(i) the interior re-coating or re-lining of any raw or drinking water storage tank, or water storage chamber within any treatment facility,

(ii) the "in-situ" re-lining of any pipeline,

(iii) a change or addition of any primary coagulant water treatment chemical (excluding filter, flocculent or coagulant aids) when the proposed chemical does not appear on a list of chemicals pre-approved by the Executive Secretary for a specific treatment facility, and

(iv) the re-development of any spring or well source or replacement of a well pump with one of different capacity.

(2) On-going Operation and Maintenance Procedures.

On-going operation and maintenance procedures are not considered public drinking water projects and, accordingly, are not subject to the project notification, plan approval and operating permit requirements of this rule. However, these activities shall be carried out in accordance with all operation and maintenance requirements contained in R309-500 through R309-550 and specifically the disinfection, flushing and bacteriological sampling and testing requirements of ANSI/AWWA F:\BOARD\BOARD PACKET MATERIALS\2009\MARCH\proposed changes R309-500.rtf

C651-05 for pipelines, ANSI/AWWA C652-02 for storage facilities, and ANSI/AWWA C654-03 for wells before they are placed back into service. The following activities are considered to be on-going operation and maintenance procedures:

- (a) pipeline leak repair,
- (b) replacement of existing deteriorated pipeline where the new pipeline segment is the same size as the old pipeline or the new segment is upgraded to meet the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3),
- (c) tapping existing water mains with corporation stops so as to make connection to new service laterals to individual structures,
- (d) ~~(d)~~(e) distribution pipeline additions where the pipeline size is the same as the main supplying the addition or the pipeline addition meets the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3), the length is less than 500 feet and contiguous segments of new pipe total less than 1000 feet in any fiscal year,
- (e) ~~(e)~~(d) entry into a drinking water storage facility for the purposes of inspection, cleaning and maintenance, and
- (f) ~~(f)~~(e) replacement of equipment or pipeline appurtenances with the same type, size and rated capacity (fire hydrants, valves, pressure regulators, meters, service laterals, chemical feeders and booster pumps including deep well pumps).

R309-500-6. Plan Approval Procedure.

(1) Project Notification.

The Division shall be notified prior to the construction of any "public drinking water project" as defined in R309-500-5(1) above. The notification may be prior to or simultaneous with submission of construction plans and specifications as required by R309-500-6(2) below. Notification shall be made by the management of the regulated public water system on a form provided by the Division. Information required by this form shall be determined by the Division and may include:

- (a) whether the project is for a new or existing public drinking water system,
- (b) the professional engineer, registered in the State of Utah, designing the project and his/her experience designing public drinking water projects within the state,
- (c) the individual(s) who will be inspecting the project during construction and whether such inspection will be full-time or part time,
- (d) whether required approvals or permits from other governmental agencies (e.g. local planning commissions, building inspectors, Utah Division of Water Rights) are awaiting approval by the Executive Secretary, the agency's name and contact person,
- (e) the fire marshal, fire district or other entity having legal authority to specify requirements for fire suppression in the project area,
- (f) for community and non-transient non-community public

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water systems or any public water system treating surface water, the name of the certified operator who is, or will be, in direct responsible charge of the water system,

(g) whether the water system has a registered professional engineer employed, appointed or designated as being directly responsible for the entire system design and his or her name and whether the system is requesting waiving of plan submittal under conditions of R309-500-6 (3),

(h) the anticipated construction schedule, and

(i) a description of the type of legal entity responsible for the water system (i.e. corporation, political subdivision, mutual ownership, individual ownership, etc.) and the status of the entity with respect to the rules of the Utah Public Service Commission.

(2) Pre-Construction Requirements.

All of the following shall be accomplished before construction of any public drinking water project commences:

(a) Contract documents, plans and specifications for a public drinking water project shall be submitted to the Division at least 30 days prior to the date on which action is desired unless the system is eligible for and has requested waiving of plan submittal. Any submittal shall include engineering reports, pipe network hydraulic analyses, water consumption data, supporting information, evidence of rights-of-way and reference to any previously submitted master plans pertinent to the project, along with a description of a program for keeping existing water works facilities in operation during construction so as to minimize interruption of service.

(b) Plans and specifications shall be prepared for every anticipated public water system project. The design utilized shall conform to the requirements of R309-500 through R309-550. Furthermore, the plans and specification shall be sufficiently detailed to assure that the project shall be properly constructed.

Drawings shall be compatible with Division's document storage and microfilming practice. Drawings which are illegible or of unusual size shall not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(c) The plans and specifications shall be stamped and signed by a licensed professional engineer in accordance with Section 58-22-602(2) of the Utah Code.

(d) Plans and specifications shall be reviewed for conformance with R309-500 through R309-550. No work shall commence on a public water system project until a plan approval has been issued by the Executive Secretary unless conditions outlined in R309-500-6(3) are met and waiving of plan submittal has been requested. If construction or the ordering of substantial equipment has not commenced within one year, a renewal of the Plan Approval shall be obtained prior to proceeding with construction.

(e) If, in the judgment of the Executive Secretary, alternate designs or specific solutions can protect the public health to the same or greater extent as achieved in R309-500 through R309-550, the Executive Secretary may grant an exception thereto (see the third paragraph of R309-500-4(1)).

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(f) Novel equipment or treatment techniques may be developed which are not specifically addressed by these rules. These may be accepted by the Executive Secretary if it can be shown that:

(i) the technique will produce water meeting the requirements of R309-200 of these rules,

(ii) the Executive Secretary has determined that it will protect public health to the same extent provided by comparable treatment processes outlined in these rules, and

(iii) the Executive Secretary has determined the technique is as reliable as any comparable treatment process outlined in these rules.

(3) Waiving of Plan Submittal Requirement.

With identification of a professional engineer, as indicated below, on a project notification form the plan submittal requirement may be waived for certain projects. In these instances, in lieu of plans and specifications, a "certification of rule conformance" shall be submitted along with the additional information required for an operating permit (see R309-500-9), signed by the professional engineer identified to Executive Secretary in (b) or, if the system has not employed, appointed, or designated such, the registered professional engineer who prepared the items in (a). Projects eligible for this waiving of plan submittal are:

(a) distribution system improvements (excluding pressure reducing valve stations and in-line booster pump stations) which conform to a "master plan" previously reviewed and approved by the Executive Secretary and installed in accordance with the ["] system's standard installation drawings, ["] also previously reviewed and approved by the Executive Secretary, or

(b) distribution system improvements consisting solely of pipelines and pipeline appurtenances (excluding pressure reducing valve stations and in-line booster pump stations);

(i) less than or equal to 4 inches in diameter in water systems (without fire hydrants) serving solely a residential population less than 3,300;

(ii) less than or equal to 8 inches in diameter in water systems (with fire hydrants) providing water for mixed use (commercial, industrial, agricultural and/or residential) to a population less than 3,300;

(iii) less than or equal to 12 inches in diameter in water systems (with fire hydrants) providing water for mixed use to a population between 3,300 and 50,000;

(iv) less than or equal to 16 inches in diameter in water systems (with fire hydrants) providing water for mixed use to a population greater than 50,000.

Additionally, the above systems in (b) shall employ, appoint or designate a registered professional engineer who is directly responsible for the entire public water system design and identify this individual to the Executive Secretary as well as have standard installation drawings previously reviewed and approved by the Division before being eligible for waiving of plan submittal requirements.

R309-500-7. Inspection During Construction.

Staff from the Division, or the appropriate local health department, after reasonable notice and presentation of credentials may make visits to the work site to assure compliance with these rules.

R309-500-8. Change Orders.

Any deviations from approved plans or specifications affecting capacity, hydraulic conditions, operating units, the functioning of water treatment processes, or the quality of water to be delivered, shall be reported to the Executive Secretary. If deemed appropriate, the Executive Secretary may require that revised plans and specifications be submitted for review. Revised plans or specifications shall be submitted to the Division in time to permit the review and approval of such plans or specifications before any construction work, which will be affected by such changes, is begun.

R309-500-9. Issuance of Operating Permit.

The Division shall be informed when a public drinking water project, or a well-defined phase thereof, is at or near completion. The new or modified facility shall not be used until an "Operating Permit" is issued, in writing, by the Executive Secretary. This permit shall not be issued until all of the following items are submitted and found to be acceptable for all projects with the exception of distribution lines (including in-line booster pump stations or pressure reducing stations), which may be placed into service prior to submittal of all items if the professional engineer responsible for the entire system, as identified to the Executive Secretary, has received items (1) and (4):

(1) a statement from a registered professional engineer that all conditions of Plan Approval were accomplished ("certification of rule conformance"),

(2) as-built "record" drawings; unless no changes are made from previously submitted and approved plans during construction,

(3) confirmation that a copy of the as-built "record" drawings has been received by the water system owner,

(4) evidence of proper flushing and disinfection in accordance with the appropriate ANSI/AWWA Standard,

(5) where appropriate, water quality data

(6) a statement from the Engineer indicating what changes to the project were necessary during construction, and certification that all of these changes were in conformance with these rules ("certification of rule conformance"),

(7) all other documentation which may have been required during the plan review process, and

(8) confirmation that the water system owner has been provided with an Operation and Maintenance manual for the new facility.

R309-500-10. Adequacy of Wastewater Disposal.

Plans and specifications for new water systems, or facilities

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required as a result of proposed subdivision additions to existing water systems, shall only be approved if the method(s) of wastewater disposal in the affected area have been approved, or been determined to be feasible, by the Utah Division of Water Quality or the appropriate local health agency.

R309-500-11. Financial Viability.

Owners of new or existing water systems are encouraged to develop realistic financial strategies for recouping the costs of constructing and operating their systems. Plans for water system facilities shall not be approved when it is obvious that public health will eventually be threatened because the anticipated usage of the system will not generate sufficient funds to insure proper operation and maintenance of the system (see also R309-352-5).

R309-500-12. Fee Schedule.

The Division may charge a fee for the review of plan and specifications. A fee schedule is available from the Division.

R309-500-13. Other Permits.

Local, county or other state permits may also be necessary before beginning construction of any drinking water project.

R309-500-14. Reference Documents.

All references made in R309-500 through R309-550 are available for inspection at the Division's office.

R309-500-15. Violations of These Rules.

Violations of rule contained in R309-500 through R309-550 are subject to the provisions of the Utah Safe Drinking Water Act (Title 19, Chapter 4 Section 109 of the Utah Code) and may be subject to fines and penalties.

KEY: drinking water, plan review, operation and maintenance requirements, permits

Date of Enactment or Last Substantive Amendment: April, 2009~~[August 15, 2001]~~

Notice of Continuation: April 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-4-104

AGENDA ITEM 12

LETTERS

**PEOA PIPELINE DRINKING WATER SYSTEM
ADMINISTRATIVE ORDER LETTER**



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

Drinking Water Board
Anne Erickson, Ed.D., *Chair*
Myron Bateman, *Vice-Chair*
Ken Bassett
Daniel Fleming
Jay Franson, P.E.
Helen Graber, Ph.D.
Paul Hansen, P.E.
Petra Rust
William J. Sinclair
David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

January 29, 2009

Greg White
Peoa Pipeline Drinking Water System
5626 North Highway 189
Peoa, Utah 84061

Dear Mr. White:

Subject: Response to Notice of Violation and Administrative Order, Peoa Pipeline
Drinking Water System, System #22013

We received your letter, dated January 13, 2009 in response to the Drinking Water Board's **Notice of Violation and Administrative Order** issued on December 18, 2008. Therein, you were ordered to submit to the Executive Secretary: 1. a plan of action and time schedule for the installation and operation of a permanent disinfection facility, 2. documentation showing that you have retained a certified operator, and 3. documentation showing that the system has the required storage capacity. Your letter indicates that you would like to contest the Order and request a hearing with the Drinking Water Board.

The Drinking Water Board meets on May 13, 2009, at a time and location yet to be determined. It will probably be at some location in Salt Lake County. We will contact you in writing when we know the meeting time and location.

At your hearing, you should be prepared to indicate: 1. what actions you have taken since the Order was imposed, 2. what you intend to do to resolve the violations and, 3. when you will complete these actions. After you have presented your case, the Drinking Water Board will make a final determination on the Peoa Pipeline Drinking Water System's action.

You have also indicated that you would like to meet with the Division to discuss bringing your system into compliance. If we can resolve the issues in a meeting before the scheduled hearing, we would not need to proceed with the hearing.

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

150 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144830 • Salt Lake City, UT 84114-4830
Telephone (801) 536-4200 • Fax (801) 536-4211 • T.D.D. (801) 536-4414
www.deq.utah.gov

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Peoa Pipeline Drinking Water System

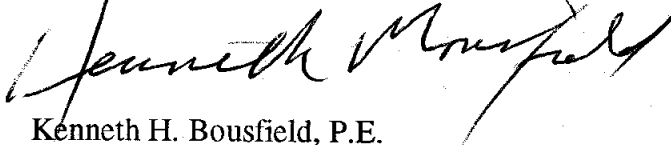
Page 2

January 29, 2009

To schedule an appointment, please contact Patti Fauver, of this office, at (801) 536-4196. In addition, do not hesitate to contact me at (801) 536-4207 if you have any questions.

Sincerely,

DRINKING WATER BOARD



Kenneth H. Bousfield, P.E.
Executive Secretary

jl

Attachments

cc: William J. Sinclair, Acting Executive Director, Department of Environmental Quality
Ken Bousfield, P.E., Director, Division of Drinking Water
M. M. Hubbell, Assistant Attorney General
Steve Jenkins, E.H.S., Summit County Public Health Department
Kathelene Brainich, U.S. EPA Region VIII

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DIVISION OF DRINKING WATER
Checklist for New Public Drinking Water Wells

System Name: _____ System Number: _____

Well Name & Description: _____

1. Approval to Drill the Well

- ☐ Project Notification Form
- ☐ Preliminary Evaluation Report (PER) concurrence
- ☐ Well drilling specifications and plans
- ☐ Valid Start Card or authorization to drill letter from the Division of Water Rights

2. Approval to Equip the Well

- ☐ Project Notification Form
- ☐ Certification of well seal
- ☐ Well driller's report (well log)
- ☐ Aquifer drawdown test results (step drawdown test & constant-rate test) for well yield determination
- ☐ Chemical analyses of the well water
- ☐ Plans and specifications for equipping the well
 - ☐ Pump information (e.g., pump specifications, curve & operating point)
 - ☐ Well head discharge piping
 - ☐ Well house design

3. Operating Permit to Introduce the Well Water

- ☐ Documentation of valid water right(s)
- ☐ Design engineer's statement of conformance with approval conditions
- ☐ Design engineer's statement of conformance with the Rule for any deviation from the plan approval or plan review exemption
- ☐ Evidence of O&M manual delivery
- ☐ As-built drawings
- ☐ Recorded land use agreements or documentation that the requirements for coverage under the City/County source protection ordinance have been met
- ☐ Satisfactory bacteriological results

January 13, 2009

Kenneth H. Bousfield, P.E.

Executive Secretary

Drinking Water Board

c/o Division of Drinking Water

150 North 1950 West

P.O. Box 144830

Salt Lake City, Utah 84414-4830

Re: Contesting NOV/CO Case No.22013-2008-01, Water System #22013

Dear Mr. Bousfield,

I, Gregory S White, President of the Peoa Pipeline Co. do hereby exercise the Companies right to contest the Administrative Order and Notice of Violation issued on December 18, 2008 against the Peoa Pipeline Company and request a hearing as authorized by the Utah Code Annotated 63G-4-101 to 601.

The Peoa Pipeline Company hereby requests that the NOV/CO issued against the system be withdrawn as the System has provided excellent water to its shareholders for over 160 years, based on our original water right of 1856, from a pristine spring which has been examined by scientific analysis and rated as such.

Our system has unfortunately had a continual series of line breaks which have unduly influenced the results of our monthly tests BAC/t's these past years. Our system is sound, our water is excellent, and our users are satisfied with the delivery of water as provided by the system.

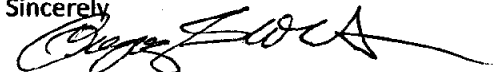
The small size of our system, with a minimal number of individual shareholders, precludes us from expanding our systems storage capacity as to do so would be an unreasonable expense. The system has instead received through the years, an exception to complying with storage requirements, based on the South Summit Fire Marshall's recognition of the sufficient availability of natural streams and ditches to be used to satisfy fire flow requirements of his department in our small community.

Our shareholder's have expressed their conviction to the Board of Directors of the Peoa Pipeline Company that chlorination of the systems water be the least desirable method of disinfection and as such the board would like to discuss with you the Division of Drinking Water, our options in providing safe disinfected drinking water to our users.

The Peoa Pipeline Company wishes to meet with the Division to discuss bringing our system into compliance. We recognize the importance of this matter. We do however request that the division participate with us and provide to us with whatever appropriate assistance, both technical and financial assistance in meeting our goals.

Please accept our appeal of the administrative order and notify us of the hearing we request when scheduled.

Sincerely



Gregory S White

President

Peoa Pipeline Company

5626 North State Road 32

Peoa Utah 8406

RECEIVED

JAN 15 2009

Drinking Water



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of
Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

Drinking Water Board
Anne Erickson, Ed.D., Chair
Myron Bateman, Vice-Chair
Ken Bassett
Daniel Fleming
Jay Franson, P.E.
Helen Graber, Ph.D.
Paul Hansen, P.E.
Petra Rust
Richard W. Sprott
David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

December 18, 2008

Greg White
Peoa Pipeline Drinking Water System
5626 North Highway 189
Peoa, Utah 84061

Dear Mr. White:

Subject: Notice of Violation and Administrative Order, Peoa Pipeline
Drinking Water System, System #22013

Division of Drinking Water records indicates that you are the responsible party for the Peoa Pipeline Drinking Water System.

Peoa Pipeline drinking water system is a public water system and as such is subject to the Utah Administrative Rules for Public Drinking Water Systems (copy available upon request). Under Utah Administrative Code R309-100-4 a water system is considered to be a public water system, when 25 or more people are served water for at least 60 days, or 15 or more water system connections are served.

In the last year of operation, 230 points have been assessed against Peoa Pipeline drinking water system. Under our Improvement Priority System ("IPS") community water systems exceeding 150 points are rated "Not Approved" and placed on a priority list for enforcement actions. The Peoa Pipeline drinking water system is currently rated "Not Approved" by our office. Further, because of these violations, the Drinking Water Board is issuing the attached Notice of Violations and Order to ensure compliance.

Please give this Order your immediate attention. A written response is required within 30 days after receipt of this NOTICE. This Order is fully enforceable unless appealed in writing within 30 days, as described in the "Notice" section of the Notice of Violation and Order ("NOV"). Any response or written answer to this NOV should be addressed to Ken Bousfield, P.E., Executive Secretary, Drinking Water Board, 150 North 1950 West, P. O. Box 144830, Salt Lake City, Utah 84114-4830.

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

150 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144830 • Salt Lake City, UT 84114-4830
Telephone (801) 536-4200 • Fax (801) 536-4211 • T.D.D. (801) 536-4414

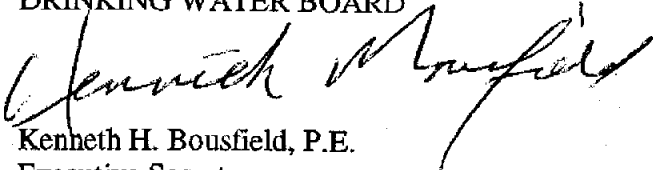
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December 18, 2008

If you have any questions, or wish to review the water system on-site please call Janet Lee, of this office, at (801) 536-0088. A phone call to the Division of Drinking Water or an on-site visit does not alter the requirement to timely respond in writing if you wish to contest this Notice and Order.

Sincerely,

DRINKING WATER BOARD



Kenneth H. Bousfield, P.E.
Executive Secretary

jl

Attachments

cc: William Sinclair, Acting Executive Director, DEQ
Melissa Hubbell, Assistant Attorney General, P.O. Box 14873, SLC, UT 84114-4873
Steve Jenkins, Env. Director, Summit County Public Health Department, P.O. Box 128, Coalville, UT 84017
Kathelene Brainich, EPA Region VIII, 1595 Wynkoop Drive, Denver, CO 80202-1129
Kenneth H. Bousfield, P.E., Director, Division of Drinking Water

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ORDER

As a part of your responsibilities under Utah Administrative Code, R309-100-9, the management of the **Peoa Pipeline** is hereby ordered to provide the Division of Drinking Water, written evidence of completion of the following items according to the deadlines given below:

1. **Peoa Pipeline Drinking Water System** must provide evidence that a public notice has been mailed as listed in **FACTS AND VIOLATIONS** above and as outlined in Attachment A. This must include proof of publication regarding the violations listed above as required by UAC R309-220-4. This notice shall include an explanation of all violations and the actions taken by the water system management to prevent further violations. The notice shall contain the words and/or information outlined in attachment A of this Order, including proof of publication within 30 days of receipt of this letter. A copy of the notice and proof of publication shall be provided to the Division within 45 days of receipt of this letter.
2. **Peoa Pipeline** must comply with UAC R309-215-5 within 60 days by submitting to the Executive Secretary a plan of action and time schedule for the installation and operation of a permanent disinfection facility

At a minimum the plan must:

- (a) provide a permanent solution to the bacteriological monitoring and quality violations associated with the water system.

If the plan calls for the installation of a chlorination facility:

- (a) the disinfection facility must be operable within 120 days of receipt of this Notice and Order;
- (b) ensure that the residual disinfection concentration entering the distribution system is not less than 0.2mg/L for more than 4mg/l as specified in UAC R309-200-7;
- (c) ensure that the residual disinfection levels are measured in the distribution system at the same time and location as the total coli form samples, including routine, repeat, and/or additional samples as specified in UAC R309-210-5;
- (d) ensure that a minimum of three residual disinfection level samples are collected each week as specified in UAC R309-210-8(3). A template of the Groundwater DBP Quarterly Report is found at the following link:

http://www.drinkingwater.utah.gov/documents/compliance/GW_DBPR_Quarterly_Report.xls; and

DRINKING WATER BOARD

**In the Matter of the Peoa Pipeline
Drinking Water System #22013**

**Notice of Violation and Order
Case No. 22013-2008-01**

The Drinking Water Board ("Board") issues this Notice of Violation and Order ("NOVO") under the Utah Safe Drinking Water Act ("Act"), sections 19-4-104, -105, -106, -107, and -109, the Utah Administrative Code ("UAC"), and in accordance with the Utah Administrative Procedures Act, section 63G-4-101 to -601.

FACTS AND VIOLATIONS

1. The **Peoa Pipeline** Drinking Water System is a public water system in Summit County that provides drinking water to approximately 141 people through 46 active connections. Greg White is the Manager of the **Peoa Pipeline** Drinking Water System.
2. A copy of **Peoa Pipeline** Drinking Water System's Improvement Priority System ("IPS") report (copy enclosed) documents the **230** points that have been assessed against the water system.
3. Based on the Division of Drinking Water's records for the past 12 months, the **Peoa Pipeline** Drinking Water System has bacteriologic violations in violation of UAC R309-200-5(6)(a) and UAC R309-210-5 as follows:
 - A. Non-acute MCL bacteriological quality violation in May 2008;
 - B. Non-acute MCL bacteriological quality violation in June 2008;
 - C. Non-acute MCL bacteriological quality violation in July 2008; and
 - D. Non-acute MCL bacteriological quality violation in September 2008.
4. Based on **Peoa Pipeline's** bacteriologic sampling results, **Peoa Pipeline** is in violation of UAC R309-215-5 and must provide a method of disinfection.
5. **Peoa Pipeline** does not have a certified operator. This is a violation of UAC R309-300.
6. A sanitary survey was performed on November 15, 2007 by Elden Olsen, of the Division of Drinking Water. Based on the survey the following deficiencies were found:
 - A. **Peoa Pipeline** Water System lacks 40% of required storage capacity in violation of UAC R309-510-8.

A response contesting this NOV/CO must be received by the Executive Secretary within 30 days of the date this NOV/CO was signed. See Utah Code Annotated § 63G-4-201(2)(a)(vi) and § 63G-4-301. The Executive Secretary's address is:

(Mailing address)

Kenneth H. Bousfield, P.E.
Executive Secretary
Drinking Water Board
c/o Division of Drinking Water
P.O. Box 144830
Salt Lake City, Utah 84414-4830

(Address for hand or overnight delivery)

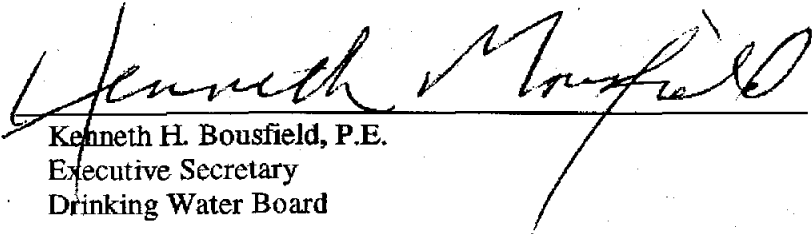
Kenneth H. Bousfield, P.E.
Executive Secretary
Drinking Water Board
150 North 1950 West
Salt Lake City, Utah 84414-4830

You will not be allowed to contest this NOV/CO in court or in any other forum if you do not first contest the NOV/CO as described above.

Issued this 18 day of December, 2008.

DRINKING WATER BOARD

By:


Kenneth H. Bousfield, P.E.
Executive Secretary
Drinking Water Board

Utah Code Annotated § 63G-4-201(3)(a)-(b):

- (a) Where the law applicable to the agency permits persons other than the agency to initiate adjudicative proceedings, that person's request for agency action shall be in writing and signed by the person invoking the jurisdiction of the agency, or by that person's representative, and shall include:
- (i) the names and addresses of all persons to whom a copy of the request for agency action is being sent;
 - (ii) the agency's file number or other reference number, if known;
 - (iii) the date that the request for agency action was mailed;
 - (iv) a statement of the legal authority and jurisdiction under which agency action is requested;
 - (v) a statement of the relief or action sought from the agency; and
 - (vi) a statement of the facts and reasons forming the basis for relief or agency action.
- (b) The person requesting agency action shall file the request with the agency and shall mail a copy to each person known to have a direct interest in the requested agency action.

- (e) ensure that two disinfection byproducts samples are collected before July 1, 2010 to comply with the IDSE (Initial Distribution System Evaluation). The samples should be taken at suspected high THM (Trihalomethane) and High HAA5 (Halo Acetic Acids) locations during the Peak Historical Month or month of warmest water temperature as specified in UAC R309-210-9, following the implementation of disinfection in your system. A sample pair (THM and HAA5) should be taken at each of the two sample locations. Sample location selection is based on the operator's best judgment and knowledge of the system.
- 3. **Peoa Pipeline Drinking Water System** must submit documentation showing that it has retained a certified operator as required by UAC R309-300 within 120 days of the date of receipt of this Order.
- 4. **Peoa Pipeline Drinking Water System** must submit documentation showing that the system has the required storage capacity as required by UAC R309-510-8 within 365 days of the date of receipt of this Order.

NOTICE

Compliance with the provisions of this NOVO is mandatory. UCA § 19-4-109 provides that a violation of the ACT or a related order may be subject to a civil penalty of up to \$1,000 per day of violation. Under certain circumstances of willfulness or gross negligence, violators may be fined up to \$5,000 per day of violation.

CONTESTING THIS NOVO

This NOV/CO is effective immediately and shall become final unless contested in writing within thirty (30) days after the date this NOV/CO was signed. See Utah Administrative Code R309-115-3. Any further administrative proceedings in this case shall be conducted formally under Utah Code Annotated § 63G-4-101 to -601. **If you do not request a hearing in writing and participate in the hearing, the Order will become final and you will not be allowed to contest this Notice of Violation in court.** See Utah Code Annotated § 63G-4-201(2)(a)(vi). Utah Code Annotated § 19-4-109 states that anyone who violates the Utah Safe Drinking Water Act, permit, rule, or order is subject to a civil penalty of up to \$1,000 per day of violation. Willful violators may be fined up to \$5,000 per day.

To contest this NOV/CO, you must respond in writing and must comply with the requirements of the Administrative Rules of the Drinking Water Board, found at Utah Administrative Code R309-115 and with the requirements of the Utah Administrative Procedures Act, including Utah Code Annotated § 63G-4-201 (3)(a)-(b). Those provisions of the Utah Administrative Procedures Act require, among other things, that you state your factual and legal reasons for disagreeing with the Notice of Violation or Compliance Order, and that you state the action that you would like the agency to take (e.g., withdrawing the NOV/CO). A copy of Utah Code Annotated § 63G-4-201(3)(a)-(b) is provided on the next page.

CERTIFICATE OF MAILING

I certify that on December 18, 2008, I caused to be mailed a true and correct copy of the Foregoing NOTICE OF VIOLATION AND ORDER to:

BY CERTIFIED MAIL TO:

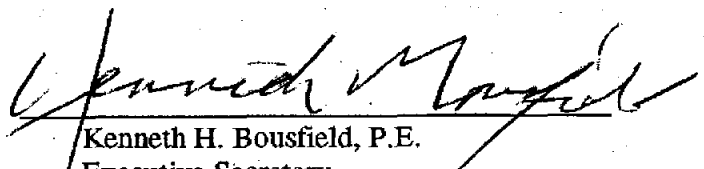
Greg White
Peoa Pipeline Water System
5626 North Highway 189
Peoa, Utah 84061

BY REGULAR MAIL TO:

Kathelene Brainich
EPA Region VIII
MC 8 ENF PT
1595 Wynkoop
Denver, Colorado 80202-1129

Melissa M. Hubbell
Assistant Attorney General
160 East 300 South, Fifth Floor
P.O. Box 140873
Salt Lake City, Utah 84114-0873

Steve Jenkins, Env. Director,
HS, MPH Health Officer
Summit County Public Health Department
85 North 50 East
P.O. Box 128
Coalville, Utah 84017



Kenneth H. Bousfield, P.E.
Executive Secretary

Attachment A

Explanation and Required Elements for Public Notice To Be Sent to Each Customer of Your Water System. The following violations have occurred for the **Peoa Pipeline Drinking Water System**:

- MCL bacteriological quality violation in May 2008.
- MCL bacteriological quality violation in June 2008.
- MCL bacteriological quality violation in July 2008.
- MCL bacteriological quality violation in September 2008.

Peoa Pipeline Water System must monitor for bacteriologic quality of one (1) sample per month. When a violation occurs, we must notify our customers in writing. A major monitoring violation occurs when no samples were collected during the month. If a sample is unsatisfactory, at least four "repeat" samples must be collected DURING THE SAME MONTH. In addition, the following month, at least five additional samples must be collected. A major repeat monitoring violation occurs when no "repeat" samples are collected for any unsatisfactory sample. A non-acute MCL Quality violation occurs when a system collecting less than 40 total coliform samples per month has one or more total coliform-positive sample during the month.

Bacteriologic sampling is performed because the U.S. Environmental Protection Agency (EPA) has determined that the presence of total coliforms (the organism tested for) is a possible health concern. Total Coliforms are common in the environment and are generally not harmful themselves. The presence of these bacteria in drinking water, however, generally is a result of a problem with water treatment or the pipes which distribute the water, and indicates that the water may be contaminated with organisms that can cause disease. Disease symptoms may include: diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. EPA has set an enforceable drinking water standard for total coliforms to reduce the risk of these adverse health effects. Under this standard, no more than one total coliform-positive sample per month may be present. Drinking water which meets this standard is usually not associated with a health risk from disease-causing bacteria and should be considered safe.

Finally, **Peoa Pipeline Drinking Water System** management should include a brief statement describing why the violations occurred (perhaps the sampler was not aware of the sampling requirements) and what you are doing to prevent the violations discussed above from re-occurring (perhaps by saying he/she is receiving additional sampling training, etc.).

ATTACHMENT B

Public Water System Improvement Priority System ("IPS") report for **Peoa Pipeline Water System**. This report indicates TCR rule violations and associated IPS points.

ATTACHMENT C

Annual TCR Summary reports for 2006, 2007, 2008 for Peoa Pipeline Water System. This report indicates positive bacteriological routine and repeat samples in the last three years.

Utah Department of Environmental Quality Division of Drinking Water

Public Water System IPS Report

UTAH22013 PEOA PIPELINE COMPANY

Run Date: 12/17/2008

PWS ID: UTAH22013 **Name:** PEOA PIPELINE COMPANY
Legal Contact: PEOA PIPELINE COMPANY **Rating:** Not Approved
GREG WHITE **Rating Date:** 11/5/08
Address: 5626 N HWY 189
PEOA, UT 84061
Phone Number: 435-783-5271
City Served (Area):
County: SUMMIT COUNTY

System Type: Community	Last Inv Update: 2/6/08	Avg Daily Prod: 0 Gal/Day	0 Gal/Min
Activity Status Cd: Active	Last Sntly Srv Dt: 11/15/2007	Total Dsgn Cap: 0	0
Population: 141	Oper Period: 1/1 to 12/31	Total Emerg Cap: 0	0

Total IPS Points: 230 **Rating Date:** 11/5/2008 **Rating:** Not Approved

Violation Pts*: 160
Admin & Physical Facilities: 40
Operator Certification Pts: 30

* Total violation points may not agree with the detail section. The detail sections show all 'open' violations; the violation points total adjusts for duplicate violations

Physical Facility, Administrative, & Source Protection Deficiencies from Site Visits

Code	Description	Date Determined	PWS Notified	Max Pts
M000	OLD FINANCIAL MGMT PLAN IN PLACE	5/14/2003	5/14/2003	0
	SYSTEM HAS WRITTEN FINANCIAL MANAGEMENT PLAN			
M001	CURRENT EMERGENCY RESPONSE PROGRAM	5/14/2003	5/14/2003	10
	SYSTEM HAS WRITTEN EMERGENCY RESPONSE PROGRAM			
V004	SYSTEM LACKS ~40% OF REQUIRED STORAGE CAPACITY	11/15/2007		50

Total Deficiency Pts 40

TCR Rule Violations

Date Range Starts: 12/1/2007

Determin Date	Compliance Period	Code	Violation Type	IPS Points Assessed
6/27/2008	5/1/08 - 5/31/08	22	MCL (TCR), MONTHLY	40
7/22/2008	6/1/08 - 6/30/08	22	MCL (TCR), MONTHLY	40
8/25/2008	7/1/08 - 7/31/08	22	MCL (TCR), MONTHLY	40
10/27/2008	9/1/08 - 9/30/08	22	MCL (TCR), MONTHLY	40

Total TCR Violation Pts: 160

Utah Department of Environmental Quality Division of Drinking Water

Public Water System IPS Report

UTAH22013 PEOA PIPELINE COMPANY

Run Date: 12/17/2008

Operator Certification Points

	Distribution	Treatment	
Level Required	SS		
Highest Certificate on Record			
Points	30	0	Total Points 30

Utah Department of Environmental Quality Division of Drinking Water Annual TCR Summary

For the 12 months beginning 1/1/2008

PWS ID: UTAH22013 **Name:** PEOA PIPELINE COMPANY
Legal Contact: PEOA PIPELINE COMPANY
 GREG WHITE
Address: 5626 N HWY 189
 PEOA, UT 84061
Phone Number: 435-783-5271
City Served (Area):
 County: SUMMIT COUNTY

Rating: Not Approved
Rating Date: 11/5/08

System Type: Community	Last Inv Update: 2/6/08	Avg Daily Prod: 0 Gal/Day
Activity Status Cd: Active	Last Snty Srv Dt: 11/15/2007	Total Dsgn Cap: 0 Gal/Min
Population: 141	Oper Period: 1/1 to 12/31	Total Emerg Cap: 0 Gal/Min

Routine Bacteriological Sampling Requirements

Samples Required	Requirement Started*	Requirement End*
1 / Month	8/1/2007	5/31/2008
1 / Month	11/1/2008	
1 / Month	8/1/2008	7/31/2008
1 / Month	7/1/2008	6/30/2008
1 / Month	9/1/2008	9/30/2008

Total Coliform Sample History

For the twelve months beginning 1/1/2008

	Routine Samples			Repeat Samples			Investigative Samples			Other
	No Samp	TC Pos.	Fec Pos.	No Samp	TC Pos.	Fec Pos.	No Samp	TC Pos.	Fec Pos.	
Jan	1	0	0	0	0	0	0	0	0	0
Feb	1	0	0	0	0	0	0	0	0	0
Mar	1	0	0	0	0	0	0	0	0	0
Apr	1	0	0	0	0	0	0	0	0	0
May	1	1	0	1	2	0	0	0	0	0
Jun	5	5	0	0	0	0	0	0	0	0
Jul	5	5	0	0	0	0	0	0	0	0
Aug	5	0	0	0	0	0	0	0	0	0
Sep	1	1	0	1	4	0	0	0	0	0
Oct	5	0	0	0	0	0	0	0	0	0
Nov	0	0	0	0	0	0	0	0	0	0
Dec	0	0	0	0	0	0	0	0	0	0

**Utah Department of Environmental Quality
Division of Drinking Water
Annual TCR Summary**

For the 12 months beginning 1/1/2007

PWS ID: UTAH22013 **Name:** PEOA PIPELINE COMPANY
Legal Contact: PEOA PIPELINE COMPANY **Rating:** Not Approved
 GREG WHITE **Rating Date:** 11/5/08
Address: 5626 N HWY 189
 PEOA, UT 84061
Phone Number: 435-783-5271
City Served (Area):
County: SUMMIT COUNTY

System Type: Community	Last Inv Update: 2/6/08	Avg Daily Prod:	Gal/Day	Gal/Min
Activity Status Cd: Active	Last Snty Srv Dt: 11/15/2007	Total Dsgn Cap:	0	0
Population: 141	Oper Period: 1/1 to 12/31	Total Emerg Cap:	0	0

Routine Bacteriological Sampling Requirements

<i>Samples Required</i>	<i>Requirement Started*</i>	<i>Requirement End*</i>
1 / Month	8/1/2007	5/31/2008
1 / Month	10/1/2006	6/30/2007
1 / Month	11/1/2008	
1 / Month	8/1/2008	7/31/2008
1 / Month	7/1/2008	6/30/2008
1 / Month	9/1/2008	9/30/2008

Total Coliform Sample History

For the twelve months beginning 1/1/2007

	Routine Samples			Repeat Samples			Investigative Samples			Other
	No Samp	TC Pos.	Fec Pos.	No Samp	TC Pos.	Fec Pos.	No Samp	TC Pos.	Fec Pos.	
Jan	1	0	0	0	0	0	0	0	0	0
Feb	1	0	0	0	0	0	0	0	0	0
Mar	1	0	0	0	0	0	0	0	0	0
Apr	1	0	0	0	0	0	0	0	0	0
May	1	0	0	0	0	0	0	0	0	0
Jun	1		0			0	0	0	0	0
Jul	5	0	0	0	0	0	0	0	0	0
Aug	1	0	0	0	0	0	0	0	0	0
Sep	1	0	0	0	0	0	0	0	0	0
Oct	1	0	0	0	0	0	0	0	0	0
Nov	1	0	0	0	0	0	0	0	0	0
Dec	1	0	0	0	0	0	0	0	0	0
Jan	1	0	0	0	0	0	0	0	0	0

For the 12 months beginning 1/1/2006

Rating Date: 11/5/08

Total Emerg Cap:

*Requirement start and end dates from legacy data prior to 1/1/2006 are not available.

For the twelve months beginning 1/1/2006

[illegible]

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GREG WHITE
PEOA PIPELINE COMPANY
5626 N STATE HWY 189
PEOA UT 84061

2. Article Number
(Transfer from service label)

7002 0510 0000 6389 8094

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-0835

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes
☐ No
If YES, enter delivery address below:

3. Service Type

☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes**U.S. Postal Service
CERTIFIED MAIL RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

7002 0510 0000 6389 8094

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Required)Restricted
(Endorsement)

Total Post

Sent To

Street, Apt.
or PO Box No.

City, State, Zip

GREG WHITE
PEOA PIPELINE COMPANY
5626 N STATE HWY 189
PEOA UT 84061

Postmark
Here

PS Form 3800, January 2001

See Reverse for Instructions

**SKY VIEW SUBDIVISION WATER SYSTEM
ADMINISTRATIVE ORDER LETTER**



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

**Department of
Environmental Quality**

William J. Sinclair
Acting Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

Drinking Water Board
Anne Erickson, Ed.D., Chair
Myron Bateman, Vice-Chair
Ken Bassett
Daniel Fleming
Jay Franson, P.E.
Helen Graber, Ph.D.
Paul Hansen, P.E.
Petra Rust
William J. Sinclair
David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Steve Smith
4845 North Susan Avenue
Cedar City, Utah 84720

Dear Mr. Smith:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
Water System # 11039 and the Division of Drinking Water**

Ken Bousfield, representing the Division of Drinking Water (DDW) met with residents of the Sky View Subdivision on October 28, 2008 to discuss the status of their drinking water system. The Sky View Subdivision drinking water system is currently unapproved by DDW. Sky View Subdivision is the #1 system on the 25 worst systems list as ranked by the Improvement Priority System. It was agreed upon by those in attendance at the meeting that the Sky View Subdivision would be adsorbed by the Central Iron County Water Conservancy District (District) and all current residents receiving water from Sky View Subdivision water system would become customers of the District. Agreeing to join the District does not relieve the Sky View Subdivision water system from the responsibility of providing safe drinking water to it's customers during the transition period. In an effort to ensure that the residents of Sky View Subdivision receive safe drinking water during the transition period, the DDW is requiring that all of the current Sky View Subdivision water system customers sign a Bilateral Compliance Agreement.

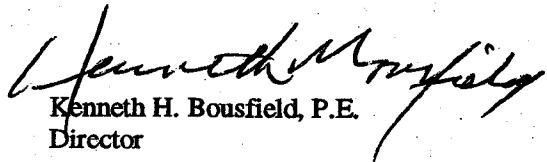
Enclosed is a draft of the proposed Bilateral Compliance Agreement for your review. The DDW has prepared this Bilateral Compliance Agreement and had it reviewed by the Attorney General's office. If you have any questions or concerns regarding the agreement, please call Elden Olsen, of my staff, at (801) 536-4097. Please sign both copies and return one signed original back to the Division.

We appreciate your willingness to enter into this Bilateral Compliance Agreement. We look forward to working with you to bring the Sky View Subdivision water system into compliance.

Bilateral Agreement
Page 2
February 4, 2009

If you have any questions or concerns regarding the agreement, please call Elden Olsen, of this office, at (801) 536-4097 or John Chartier, P.E., District Engineer in the Southwest District, at (435) 865-5152.

Sincerely,



Kenneth H. Bousfield, P.E.
Director

EO

Enclosures

cc: John Chartier, P.E., District Engineer, Southwest District, 260 E. DL Sargent Dr. Cedar City, UT 84720
John Gallis, Southwest Health Dept., 260 E. DL Sargent Drive, Cedar City, UT 84720
Randy Taylor, P.E., District Engineer, Southwest District, 620 S. 400 E., St. George, UT 84770
Rod Cosslett, Env. Director, Southwest Health Dept., 260 E. DDL Sargent, Cedar City, UT 84720
Fred Nelson, Attorney General's Office, P.O. Box 14873, Salt Lake City, UT 84114
Ken Bousfield, DDW
Patti Fauver, DDW



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Department of Environmental Quality

William J. Sinclair
Acting Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
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Petra Rust
William J. Sinclair
David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Robert and Evelyn Sheets
5019 North Susan Avenue
Cedar City, Utah 84720

Dear Mr. and Mrs. Sheets:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
Water System # 11039 and the Division of Drinking Water**

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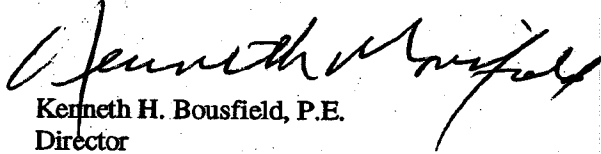
Bilateral Agreement

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February 4, 2009

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Sincerely,



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Director

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Ken Bousfield, DDW
Patti Fauver, DDW



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David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Dan and Kathleen Ballenger
4913 North Susan Avenue
Cedar City, Utah 84720

Dear Mr. and Mrs. Ballenger:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
Water System # 11039 and the Division of Drinking Water**

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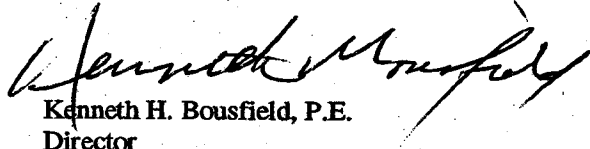
Bilateral Agreement

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February 4, 2009

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Sincerely,



Kenneth H. Bousfield, P.E.
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Fred Nelson, Attorney General's Office, P.O. Box 14873, Salt Lake City, UT 84114
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Paul Hansen, P.E.
Petra Rust
William J. Sinclair
David K. Stevens, Ph.D.
Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Larry and Lanita Hadley
5078 Spring Avenue
Cedar City, Utah 84720

Dear Mr. and Mrs. Hadley:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
Water System # 11039 and the Division of Drinking Water**

Ken Bousfield, representing the Division of Drinking Water (DDW) met with residents of the Sky View Subdivision on October 28, 2008 to discuss the status of their drinking water system. The Sky View Subdivision drinking water system is currently unapproved by DDW. Sky View Subdivision is the #1 system on the 25 worst systems list as ranked by the Improvement Priority System. It was agreed upon by those in attendance at the meeting that the Sky View Subdivision would be adsorbed by the Central Iron County Water Conservancy District (District) and all current residents receiving water from Sky View Subdivision water system would become customers of the District. Agreeing to join the District does not relieve the Sky View Subdivision water system from the responsibility of providing safe drinking water to its customers during the transition period. In an effort to ensure that the residents of Sky View Subdivision receive safe drinking water during the transition period, the DDW is requiring that all of the current Sky View Subdivision water system customers sign a Bilateral Compliance Agreement.

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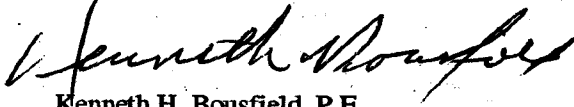
Bilateral Agreement

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February 4, 2009

If you have any questions or concerns regarding the agreement, please call Elden Olsen, of this office, at (801) 536-4097 or John Chartier, P.E., District Engineer in the Southwest District, at (435) 865-5152.

Sincerely,



Kenneth H. Bousfield, P.E.
Director

EO

Enclosures

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John Gallis, Southwest Health Dept., 260 E. DL Sargent Drive, Cedar City, UT 84720
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Fred Nelson, Attorney General's Office, P.O. Box 14873, Salt Lake City, UT 84114
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Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Walter Oseguera
10384 Brosy Rock Court
Las Vegas, Nevada 89129

Dear Mr. Oseguera:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
Water System # 11039 and the Division of Drinking Water**

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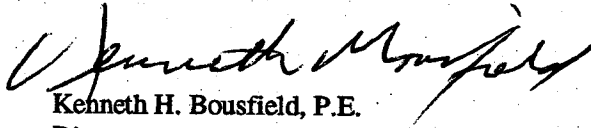
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Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Terry Thomas
4950 Spring Avenue
Cedar City, Utah 84720

Dear Mr. Thomas:

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Water System # 11039 and the Division of Drinking Water**

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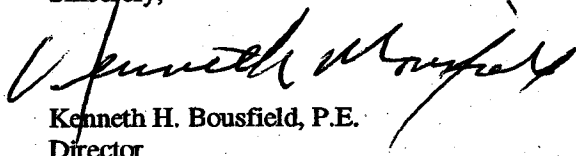
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Director

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Ron Thompson
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Executive Secretary

February 4, 2009

Gilbert Shai
4920 Spring Avenue
Cedar City, Utah 84720

Dear Mr. Shai:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
Water System # 11039 and the Division of Drinking Water**

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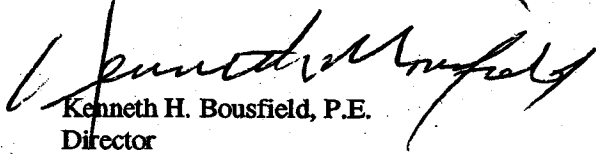
Bilateral Agreement

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Sincerely,



Kenneth H. Bousfield, P.E.
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Ron Thompson
Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Kolob Water
P.O. Box 1063
Cedar City, Utah 84720

To Whom It May Concern:

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Water System # 11039 and the Division of Drinking Water

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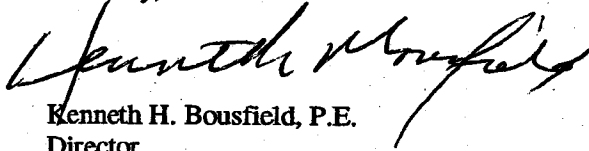
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Kenneth H. Bousfield, P.E.
Executive Secretary

February 4, 2009

Michael and Coral Lee Kelly
4997 North 3425 West
Cedar City, Utah 84720

Dear Mr. & Mrs. Kelly:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
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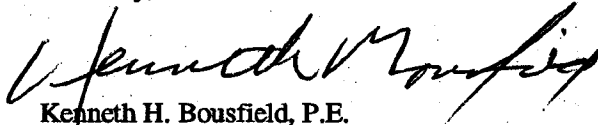
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Sincerely,



Kenneth H. Bousfield, P.E.
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Acting Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

February 4, 2009

Tiffany Cole Atchley
Sky View Subdivision
4933 North 3425 West
Cedar City, Utah 84720

Dear Ms. Atchley:

Subject: Draft Bilateral Compliance Agreement between Sky View Subdivision Water
System # 11039 and the Division of Drinking Water

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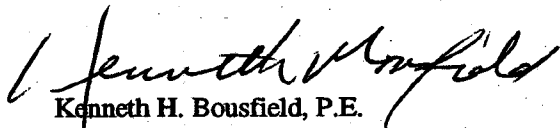
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Tiffany Cole
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February 4, 2009

Curtis L. Nelson
4996 3425 West
Cedar City, Utah 84720

Dear Mr. Nelson:

**Subject: Draft Bilateral Compliance Agreement Between the Sky View Subdivision
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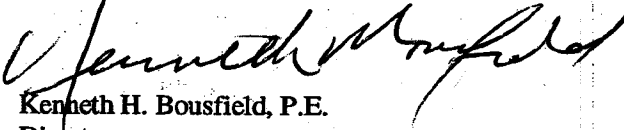
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Kenneth H. Bousfield, P.E.
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Bilateral Compliance Agreement

This Bilateral Compliance Agreement (BCA) is between the Division of Drinking Water (Division) and drinking water system UTAH 11039 Sky View Subdivision Water System (System). The BCA outlines the terms and conditions of compliance and correction that the System must meet to remedy the deficiencies outlined in the Notice of Violation and Administrative Order issued October 28, 2008. This agreement is a result of a meeting between residents of the Sky View Subdivision, representing the System and Ken Bousfield, representing the Division. A copy of the Notice of Violation and Administrative Order is attached to and made a part of this BCA.

During the October 28, 2008 meeting with Ken Bousfield, John Chartier, P.E., District Engineer with the Southwest District Health Department, and the residents of Sky View Subdivision agreed to the following:

The Division will change the rating of the System from "Not Approved" to "Corrective Action" upon execution of this document. The Division of Drinking Water will allow the System five (5) months to correct all five of the items listed below without taking enforcement actions. The specific deadline will start on July 1, 2009.

In return, Sky View Subdivision will meet the following terms and conditions:

1. Identify Administrative Contact Person

On or before March 31, 2009, Sky View Subdivision Water System will submit documentation, in writing identifying a mutually agreed upon person as the contact between the System and the Division. Utah Administrative Code R309-300-5(10).

Failure of the system to submit the documentation by the above deadline will result in a stipulated penalty of \$200.00. The penalty shall be assessed for each day after the specific deadline has passed until each compliance deadline has been met. Utah Administrative Code R309-405-4(1)(c)(ii)(B).

2. Connection to Central Iron County Water Conservancy District

The System will be connected to the Central Iron County WCD. Each individual service connection shall independently sign up for service with Central Iron County WCD by July 1, 2009. Necessary construction or interconnection plans must be reviewed and approved by the Division in accordance with Utah Administrative Code R309-550-9.

Failure of the system to submit the documentation demonstrating the connection of all service connections to Central Iron County WCD will result in the Sky View Subdivision homeowners being a regulated water system in the State of Utah. This means that Sky View Subdivision homeowners will be required to comply with the Division of Drinking Water Rules and Regulations, and Environmental Protection Agency Rules and Regulations. The specific deadline for submission of the documentation will be July 1, 2009. Utah Administrative Code R309-405-4(1)(a)(ii)(B).

3. Total Coliform Rule

The administrative contact person or the assigned operator shall immediately begin collecting bacteriological samples. The System must collect the bacteriological samples monthly beginning in February 2009. Sampling results from a certified laboratory must be submitted to the Division no later than the 10th day of the following month. Utah Administrative Code R309-400-3.

Failure of the system to submit the sampling results by the required deadline will result in a stipulated penalty of \$200.00. The penalty shall be assessed for each day after the specific deadline has passed until each compliance deadline has been met. Utah Administrative Code R309-405-4(1)(c)(ii)(C).

4. Chemical & Quality Monitoring

Division records show that Sky View Subdivision's chemical monitoring is deficient. The System must take a Nitrate sample for the year 2009. The System must take the appropriate sample, have it analyzed by a certified laboratory and provide the results to the Division no later than the last day of March 2009. Utah Administrative Code R309-400-3.

Failure of the system to submit the sampling results by the above deadline will result in a stipulated penalty of \$200.00. The penalty shall be assessed for each day after the specific deadline has passed until each compliance deadline has been met. Utah Administrative Code R309-405-4(1)(c)(ii)(C).

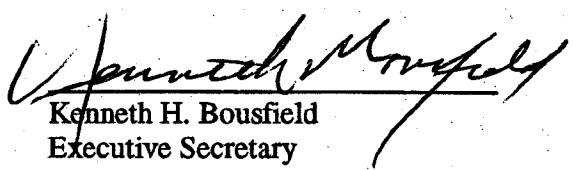
5. Source Well

The system source well, WS001 must be abandoned and capped as soon as the System is connected to Central Iron County WCD. Utah Administrative Code R309-500.

Failure of the system to submit records showing that WS001 has been abandoned and capped by July 1, 2009 will result in a stipulated penalty of \$600.00. The penalty shall be assessed for each day after the specific deadline has passed until each compliance deadline has been met. Utah Administrative Code R309-405-4(1)(b)(i)(E).

Nothing in this Bilateral Compliance Agreement prohibits the Division of Drinking Water from taking further enforcement actions as necessary, including but not limited to rating the water system "Not Approved".

We, the undersigned parties agree to the terms, conditions and deadlines set forth in this Bilateral Compliance Agreement.


Kenneth H. Bousfield
Executive Secretary
Drinking Water Board

February 4, 2009

[Name], Manager
Sky View Subdivision

_____, 2009